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ABSTRACT

This index is divided into two sections: an Index on Federal Regulations and an Abstracts section of Court Cases and Administrative Decisions. Section 1 provides a topic index and comparison of contents and coverage of 16 federal departments with regulations established as of August 1981. Presented in tabular form, this index shows major topics and subtopics; in alphabetical order, names of each federal department whose regulations are cited; Federal Register volume numbers, dates, and Codes of Federal Regulations; specific regulation sections or "part numbers"; and "subpart numbers." Seven topics are covered: Administrative Requirements; Assurances; Discrimination; Education (all but postsecondary); Education--Postsecondary; Employment; Health, Welfare, and Social Services; and Program Accessibility. An appendix lists federal departments with regulations, guidelines, or requirements. Section 2 provides short summaries of court cases (1976-81) and administrative decisions relating to discrimination of persons with disabilities and to compliance with federal and state laws. The format for administrative decisions is topic, plaintiff/defendant, court, reference, and synopsis. Court cases are listed by eight topics: Administrative Requirements, Complaints, Definition of Handicap, Discrimination, Education, Employment, Institution vs. Community Placement, and Transportation. Cases within topics are listed in chronological order. Other information provided includes the plaintiff/defendant, court, reference, and synopsis. A glossary is appended. (YLB)

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ED220588

INDEX

OF

FEDERAL REGULATIONS AND COURT CASES

ON THE IMPLEMENTATION OF

SECTION 504 OF THE REHABILITATION ACT OF 1973

NOVEMBER, 1981

CE032670

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Acknowledgements

Index of Federal Regulations and Court Cases

on the

Implementation of Section 504 of the Rehabilitation Act of 1973

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CONTENTS

	Page
ACKNOWLEDGEMENT	i
INTRODUCTION	1
SECTION I - Index of Federal Regulations	1-28
ADMINISTRATIVE REQUIREMENTS	1-4
Compliance Obligations	1
Grievance Procedures	1
Nondiscriminatory Policies and Practices Notices	1
Public Information	2
Remedial Action	2
Responsible Employee Designation	2
Self-evaluation Compliance Planning	2-4
Voluntary or Affirmative Action	4
ASSURANCES	4,5
Applicability Extensions	4
Applications referencing Assurances	4
Compliance Confirmation	4
Covenants to Assure Nondiscrimination	4
Duration of Obligation	4,5
Failure to Secure	5
Federal Assistance Applicants	5
Form	5
Interagency Agreements - Nondiscrimination Provisions	5
Notice of United States' Right to Seek Judicial Enforcement	5
Others Required	5
Pre-award Reviews Conducted Using Assurance and Data Provided by Applicant to Determine Compliance	5
State Programs Receiving Continued Assistance	5
Volunteer Programs	5

Page

SECTION I - Index of Federal Regulations (Continued)

DISCRIMINATION ---------- 5-8

Activities and Areas Covered ---------- 6-8

EDUCATION -- PRESCHOOL, ELEMENTARY, SECONDARY AND ADULT ---------- 8-12

Educational Setting ---------- 8
Evaluation and Placement ---------- 8,9
Free and Appropriate Education ---------- 9,10
Identification, Location and Notification, Annually ---------- 10,11
Nonacademic and Extracurricular Services & Activities ---------- 11
Preschool and Adult Education ---------- 11
Private Education Programs, Elementary or Secondary ---------- 11,12
Procedural Safeguards Related to the Identification and Evaluation of Handicapped Persons and Their Placement in Special Education Programs ---------- 12

EDUCATION -- POSTSECONDARY ---------- 12-16

Academic Adjustments ---------- 12,13
Admissions and Recruitment ---------- 13,14
Applicability to Recipients That Operate Postsecondary Education Programs Including Vocational Education Programs --- 14
Financial and Employment Assistance ---------- 14,15
Housing ---------- 15
Nonacademic Services ---------- 15
Treatment of Students ---------- 16

EMPLOYMENT ---------- 16-21

Discrimination ---------- 16,17
Employment Criteria ---------- 17,18
Listing of Employment Openings ---------- 18
Labor Unions and Recruiting and Training Agencies ---------- 18
Preemployment Inquiries ---------- 18-20
Reasonable Accommodation ---------- 20,21

	Page
HEALTH, WELFARE AND SOCIAL SERVICES	21,22
Applicability	21
Auxiliary Aids to Afford Equal Opportunity to Benefit from Services Provided	21
Discrimination in Providing Service -- Prohibitions	21
Drug and Alcohol Addicts -- Discrimination Prohibited in Admission or Treatment	22
Education of Institutionalized Persons Provided	22
Emergency Treatment for Hearing Impaired -- Establish System for Effective Communication	22
Notice of Services or Written Material Concerning Waivers of Rights or Consent to Treatment Provided	22
PROGRAM ACCESSIBILITY	22-28
Communication Access	22,23
Discrimination Resulting from Inaccessible or Unusable Facilities Prohibited	23
Existing Facilities	24,25
Historic Properties	25,26
New Construction	26,27
New Facilities - Renting or Purchasing	27
Notices of Program Accessibility	28
Programs and Activities	28
APPENDIX I-A	29
SECTION II - Index on the Abstracts of Court Cases and Administrative Decisions	1-85
ADMINISTRATIVE DECISIONS	12-18
COURT CASES	19-85
Administrative Requirements	19,20
Complaints	21-34
Definition of Handicap	35-37

Page

COURT CASES (Continued)

Discrimination ---------- 38-39
Education ---------- 40-61
Employment ---------- 62-77
Institution vs. Community Placement ---------- 78,79
Transportation ---------- 80-85

APPENDIX II-A ---------- 86

APPENDIX II-B ---------- 87-90

INTRODUCTION

The Office of Statewide Compliance Coordination (OSCC), was established June 12, 1980, by Governor Edmund G. Brown Jr., through Executive Order B-65-80. OSCC coordinates, monitors, and reports state departments' efforts to comply with the Federal Rehabilitation Act of 1973- Section 504, federal regulations on implementing Section 504, and those portions of the California Government Code covering Section 11135-11139.5, Health and Welfare Laws.

In order to facilitate compliance efforts, OSCC has developed various informational materials. The Index of Federal Regulations and Court Cases on the Implementation of Section 504 of the Rehabilitation Act of 1973 is one of these informational publications. It is divided into two sections. Section 1, Index on Federal Regulations, provides a topic index and comparison of the contents and coverage of sixteen federal departments which had regulations established as of August, 1981. Section II, Abstracts of Court Cases and Administrative Decisions, provides short summaries of court cases and administrative decisions relating to discrimination of persons with disabilities and non-compliance with federal and state laws such as Sections 503 and 504 of the Rehabilitation Act of 1973, the 1964 Civil Rights Act (EHA); U.S. Constitutional amendments and state statutes. These cases span the period from 1976 to 1981.

ORGANIZATION OF SECTION I

Index on Federal Regulations

TOPIC (1)	(2)--ACTION (3) FRv44 No. 105 5/30/79 45CFR1232 (4)	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 118 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32
ADMINISTRATIVE REQUIREMENTS	1232	1012	1040	84	42	32
Public Information						
Language – appropriate terminology			(5) .5c			
Materials distributed			.5b			
Newspapers, magazines						
Grantee		.45c1				
Organizations representing handicapped individuals		.45c2				
News media publications, broadcasts		.45c3,5	.5b			
Posters			.5b			
Small recipients		.47				
Remedial Action	.7a	.42	.7a	.6a	.505a	.6a
Funding department specified	.7a1	.42a	.7a	.6a1	.505a	.6a1

(1) This column shows, in alphabetical order, the major topics and subtopics.
(2) These columns list, in alphabetical order, by acronym or abbreviated title, the names of each of the federal departments whose regulations are cited.
(3) Indicates the Federal Register (FR) volume (v) number, and date and the Code of Federal Regulations (CFR), where the regulations can be found.
(4) This number signifies the specific regulation section or "part number".
(5) This number is the "subpart number". Citations within the individual columns state only subpart numbers.

NOTE: The regulations referenced are subject to periodic change. Reference the latest editions of the Federal Register or Code of Federal Regulations for updated information.

The abstracts of court cases and administrative decisions that comprise this section of the Index have been reviewed and categorized according topic. The cases include those adjudicated or reviewed by state courts and by the federal court system. Administrative decisions are those of the Department of Labor, Office of Federal Contract Compliance Programs and the Architectural and Transportation Compliance Barriers Board (ATBCB).

NOTE: The federal three-court system includes the district or trial courts, appellate or circuit courts, and Supreme Court. District Court decisions are reported in the Federal Supplement (Fed. Supp.), Circuit Court decisions are published in the United State Reports (U.S.). These reports are available through city and county bar association libraries which are open to the public.

The Department of Labor's process is to hear a case after negotiations between a contractor(s) and plaintiff fail. Decisions of administrative law judges are subject to review by Department of Labor's Undersecretary for Employment Standards Administration.

ATBCB's executive director is authorized, at the direction of the Board, to bring civil action in any appropriate U.S. District Court to enforce orders of the Board or to intervene in civil actions which relate to the Architectural Barriers Act of 1968.

ORGANIZATION OF SECTION II

Abstracts of Court Cases

	TOPIC		PLAINTIFF/DEFENDANT		COURT	REFERENCE
(1)	Education	(2)	Yatro v. State of Texas	(2)	Northern District Court TX 12/21/79	491 Fed. Supp. 1234

Neither Section 504 nor the Education for All Handicapped Children Act requires school districts to perform regular catheterization procedure for a child

SYNOPSIS

The plaintiffs sought to enroll their handicapped daughter who required frequent catheterization, in the early childhood development program of the defendant school district. Plaintiffs were told the district would not perform this procedure. Plaintiffs then filed suit alleging violation of the Education for All Handicapped Children Act, the Rehabilitation Act, and internal policy statements of the school district. The court held that the defendants violated neither of the federal statutes saying that catheterization is not a related educational service, and that refusal to perform the catheterization procedure did not violate the defendant's internal policy statement.

	TOPIC		PLAINTIFF/DEFENDANT		COURT	REFERENCE
(1)	Education	(3)	Bonsall v. Sequoia Union High School District	(3)	Northern District Court CA 1979	464 Fed. Supp. 1194

Courts have authority to award damages in Rehabilitation Act and Education of All Handicapped Children Act cases

SYNOPSIS

The plaintiffs alleged that the school district failed to provide a child with a free, public education appropriate to his needs by refusing to pay for a full-time private tutor for the child in his parents' home. The court held that it has the authority to award damages including compensation for the full-time tutor.

	TOPIC		PLAINTIFF/DEFENDANT		COURT	REFERENCE
(1)	Education Complaints	(3)	Harris v. Campbell	(3)	Eastern District Court VA 1979	472 Fed. Supp. 51

Generally, prior resort to administrative remedies is a prerequisite to bringing suit to redress violation of Education of All Handicapped Children Act

SYNOPSIS

The plaintiff alleged that defendants failed to provide him an appropriate program of education. The court dismissed the case without prejudice, holding that where school officials have not willfully withheld educational opportunities from a handicapped child, the plaintiff must first exhaust his administrative remedies.

(1) The cases are listed by topic
(2) Cases within sections are listed in chronological order.
(3) Where there is no month or day cited in the date, the cases are alphabetized within the sections in chronological order by year.

NOTE: Up-to-date information on court decisions or appeals of court cases that are referenced in this document, are available through law libraries or the appropriate court referenced supplements.

SECTION I

INDEX ON FEDERAL REGULATIONS

INDEX

Federal Regulations on Implementing the Rehabilitation Act of 1973, Section 504

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/25/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 108 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
ADMINISTRATIVE REQUIREMENTS	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Compliance Obligations																
Limited employment opportunities		.11	.8, .64b	.10b	.505h	.10b		.189b	.5b			.10b			.55g3	.410b
Other regulations			.64c													
Reports													.8b			.405e1
State or local laws do not affect	.8	.9	.64a	.10a	.505h	.10a		.189a	.5a			.10a		.17		.410a
Grievance Procedures		.44		.7b	.505e	.45b		.106b	.43			.7b		.13b	.55d2	.407b
Applicability criteria Amount of assistance					.505e	.45b									.55d2	.407b
Number of employees				.7b	.505e			.106b				.7b		.13b		.407b
Small recipients		.47		.7	.505g			.108				.9			.55f	.409
Complaints		.44		.7b	.505e	.45c		.106b				.7b		.13b	.55d2	
Deadlines		.44				.45b								.13b		
Due process standards		.44		.7b	.505e			.106b				.7b		.13b	.55d2	.407b
Job applicants				.7b	.505e			.106b	.43						.55d2	.407b
Operating administration -- filing deadline														.13b		
Postsecondary educational institution applicants				.7b				.106b							.55d2	
Time period for filing complaints		.44				.45b										
Nondiscriminatory Policies and Practices Notices	.6	.45	.6	.8	.505f	.8	.6h	.107a	.4	.232		.8	.8d	.15	.55e	.408
Applicability Amount of assistance					.505f1										.55e1	
Number of beneficiaries						.8a										
Number of employees				.8a	.505g	.8a		.107a								.409
Small recipients				.9	.505b1	.9		.108							.55f	
Communication modes		.45b1			.505b1											
Mentally handicapped		.45b1			.505b1											
Vision or hearing impaired		.45b1			.505b1											
Contents	.6	.45b2,3	.6a	.8a	.505f1	.8a	.6h	.107a	.4a	.232a		.8a	.8d	.15a	.55e1	.408a
Deadlines		.45c	.6a	.8a	.505f1	.8a		.107a		.232a		.8a		.15a	.55e1	.408a
Entities to be notified	.6	.45a	.8a	.8a	.505f	.8a		.107a	.4a	.232a		.8a	.8d	.15a	.55e1	.408a
Language – appropriate terminology			.8c													
Methods		.45c	.6a	.8a	.505f1	.8a	.6h	.107a	.4a	.232a		.8a		.15a	.55e1	.408a
Publications		.46	.6b	.8b	.505f2	.8b		.107b	.4b	.232b		.8b		.15b	.55e2	.408b
Recruitment materials			.6b	.8b	.505f2	.8b	.6i	.107b	.4b	.232b		.8b		.15b	.55e2	.408b

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/25/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
ADMINISTRATIVE REQUIREMENTS	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Public Information																
Language -- appropriate terminology			.5c													
Materials distributed			.5b													
Newspapers, magazines								.107b								
Grantee		.45c1														
Organizations representing handicapped individuals		.45c2														
News media publications, broadcasts		.45c3,5	.5b													
Posters			.5b													
Small recipients		.47														
Remedial Action	.7a	.42	.7a	.6a	.505a	.6a		.105a		.231c		.6a		.11a		.406a
Funding department specified	.7a1	.42a	.7a	.6a1	.505a	.6a1		.105a1		.231c1		.6a1		.11a1		.406a1
Participants, employees, and applicants																
Current	.7a3iii	.42a	.7a	.6a1	.505a	.6a3iii		.105a3iii		.231c1		.6a1		.11a		.406a3iii
Former	.7a3i	.42c1	.7a	.6a3i	.505a	.6a3ii		.105a3i		.231c3i		.6a3i		.11a3i		.406a3i
Would-be	.7a3ii	.42c2	.7a	.6a3ii	.505a	.6a3i		.105a3ii		.231c3ii		.6a3ii		.11a3ii		.406a3ii
Violators																
Required	.7a1	.42a	.7a	.6a1	.505a	.6a1		.105a1		.231c1		.6a1		.11a1		.406a1
Recipients that exercise control may require	.7a2	.42b		.6a2		.6a2		.105a2		.231c2		.6a2		.11a2		.406a2
Responsible Employee Designation		.41	.5a	.7a	.505d	.7		.106a	.43	.231f		.7a		.13a	.55d1	.407a
Criteria for determining																
Amount of assistance					.505d										.55d1	
Number of beneficiaries					.7									.13a		.407a
Number of employees				.7a	.505d	.7		.106a				.7a		.13a		.409
Small recipients		.47		.9	.505g	.9		.108				.9			.55f	
Changes														.13a		
Deadlines														.13a		
Reporting name, address, telephone number																
Publish			.5a													
Self-evaluation Compliance Planning	.7c	.40	.7c	.6c	.505c	.6c	.7	.105c	.42	.231e		.6c		.11c	.55c	.406c
Compliance extent							.7a									
Cost of changes							.7a									
Current facilities							.7a	.105c2								
Deadline	.7c1	.40a1,b	.7c	.6c1	.505c1	.6c1	.7a	.105c1	.42a	.231e1		.6c1			.55c1	.406c1

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 8/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/25/79 45CFR1624	NASA FRv44 No. 178 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
ADMINISTRATIVE REQUIREMENTS	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Self-evaluation Compliance Planning (Cont.)																
Recipients who became recipients one year after effective date of the regulations																.406c3
Interested persons' assistance	.7c1	.40a2	.7c1	.6c1i - .6c1iii	.505c1	.6c1i - .6c1iii	.7a	.105c1i-.105c1iii	.42a1 - .42a3	.231e1i-.231e1iii		.6c1i - .6c1iii		.11c2	.55c1	.406c1i-.406c1iii
Policies and practices								.105c1i								
Discrimination – elimination of previous effects	.7c1	.40a2iii	.7c3	.6c1iii	.505c1	.6c1iii		.105c1iii	.42a3	.231e1iii		.6c1iii		.11c2iv	.55c1ii	.406c1iii
Evaluation	.7c1	.40a2i	.7c1	.6c1i	.505c1	.6c1i	.7a	.105c1i	.42a1	.231e1i		.6c1i		.11c2i	.55c1i	.406c1i
Completion & notification														.11c2i		
Review/update periodically														.11c2v		
Modification	.7c1	.40a2ii	.7c2	.6c1ii	.505c1	.6c1ii		.105c1ii	.42a2	.231e1ii		.6c1ii		.11c2iii	.55c1ii	.406c1ii
Achievement measures														.11c2iii		
Deadline														.11c2iii		
Schedule														.11c2iii		
Problem areas identified														.11c2ii		
Remedial methods														.11c2ii		
Public inspection	.7c2	.40d2		.6c2	.502	.6c2	.7b	.105c2	.42a4	.231e2		.6c2		.11c3	.55c4	.406c2
Self-evaluation record	.7c2	.40c-d	.7d	.6c2	.505c2	.6c2	.7b	.105c2	.42a4	.231e2		.6c2		.11c3	.55c4	.406c2
Criteria for determining Amount of Assistance					.505c2										.55c4	
Number of beneficiaries						.6c2										
Number of employees	.7c2			.6c2	.505c2	.6c2		.105c2								.406c2
Small recipients					.505g										.55f	
Copies																
Interested persons consulted		.40d3														
With application for assistance		.40b,c														
Federal agency requests	.7c2			.6c2	.505c2	.6c2	.7b	.105c2	.42a4	.231e2		.6c2		.11c3	.55c4	.406c2
File Areas examined	.7c2ii	.40c2		.6c2ii	.505c2ii	.6c2ii		.105c2ii	.42a4ii	.231e2ii		.6c2ii		.11c3ii	.55c4ii	.406c2ii
List of persons consulted	.7c2i			.6c2i	.505ci	.6c2i		.105c2i	.42a4i	.231e2i		.6c2i		.11c3i	.55c4i	.406c2i
Names, addresses, telephone numbers		.40c1														
Modification descriptions	.7c2iii	.40c4		.6c2iii	.505ciii	.6c2iii		.105c2iii	.42a4iii	.231e2iii		.6c2iii		.11c3iii	.55c4iii	.406c2iii
Problems identified	.7c2ii	.40c2		.6c2ii	.505cii	.6c2ii		.105c2ii	.42a4ii	.231e2ii		.6c2ii		.11c3ii	.55c4ii	.406c2ii
Recommendations not adopted – rationale		.40c3														
Remedial steps description	.7c2iii	.40c4		.6c2iii	.505ciii	.6c2iii	.7b	.105c2iii	.42a4iii	.231e2iii		.6c2iii		.11c3iii	.55c4iii	.406c2iii
Time period	.7c2	.40d1		.6c2	.502	.6c2	.7b	.105c2	.42a4	.231e2		.6c2		.11c3	.55c4	.406c2

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/25/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 86 4/4/79 13CFR113	State Dept FRv45 No. 68437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv48 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
ADMINISTRATIVE REQUIREMENTS	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Self-evaluation Compliance Planning (Cont.)																
Transition plan copies		.40c5														
Responsible employees designated		.40c6												.11c1		
Deadline														.11c1		
Names, addresses, telephone numbers, operating administration notification														.11c1		
Name and title		.40c6														
Voluntary or Affirmative Action	.7b	.43	.7b	.6b	.505b	.6b		.105b		.231d	.31a	.6b		.11c1		.406b
Discriminatory conditions	.7b	.43		.6b		.6b		.105b		.231d		.6b				.406b
Qualified handicapped persons participation			.7b		.505b									.11b		
Waivers for small recipients		.47														
ASSURANCES	.5	.48	.4	.5	.504	.5		.104	.41	.231a	.4	.5	.7	.9		.405
Applicability Extensions																
Academic institutions, admissions and student-related practices			.4e1, 2													
Construction of facilities or parts thereof			.4g													
Facility assurance extension			.4g													
Larger system assurance			.4g													
Facility			.4e2		.504c											.405c
Institution			.4e2		.504c											.405c
Other agencies within same governmental unit when policies affect recipients			.4d		.504d											
Waiver of extension to other agencies			.4d													
Applications Referencing Assurances	.5a							.104a	.41a	.231a						
Compliance Confirmation					.504a											
Covenants to Assure Nondiscrimination		.48c	.4c	.5c	.504a	.5c		.104c				.5b2	.7b	.9b		.405d
Breach of covenant		.48c3	.4c3	.5c3	.504a	.5c3		.104c3	.41c			.5b3	.7b			.405d3
Mortgaging real property to finance construction		.48c3	.4c3	.5c3		.5c3		.104c3				.5b3	.7b			.405d3
Property purchased or improved with federal assistance		.48c2	.4c2	.5c2		.5c2		.104c2	.41c			.5b2	.7b	.9b2		.405d2
Transfer of real property		.48c1	.4c1	.5c1	.504a	.5c1		.104c1					.7b	.9b1		.405d1
Duration of Obligation	.5a, b	.48b	.4b	.5b	.504d	.5b		.104b	.41b	.231b		.5b	.7a	.9b		.405b
Period assistance extended		.48b3	.4b3	.5b3	.504d			.104b3	.41b2				.7a	.9		.405b3

TOPIC	[illegible]TION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/25/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	[illegible]portation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/6/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
ASSURANCES	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Duration of Obligation (Cont.)																
Period of program operation																
Whichever period is longer						.5b3		.104b2								
Personal property																
Period of ownership or possession	.5b	.48b2	.4b2	.5b2		.5b2		.104b2	.41b1				.7a	.9b3		.406b2
Whichever period is longer					.504d											
Period property is used by a transferee for purposes related to recipient's operations								.104b1						.9b3		
Real property assistance																
Period of use for purpose or similar purpose		.48b1	.4b1	.5b1	.504d	.5b1		.104b1				.5b1	.7a	.9b1, 2		.405b1
Structures on property																
Period of use for purpose or similar purpose		.48b1	.4b1	.5b1		.5b1		.104b1				.5b1				.405b1
Transferees		.48b1	.4b1	.5b1	.504d	.5b1		.104b1	.41c			.5b1	.7a	.9b1-3		.405b1
Failure to Secure (Section 504 Regulations Still Enforceable)					.504f											
Federal Assistance Applicants	.5a	.48a	.4a	.5a	.504a	.5a		.104a	.41a		.4	.5	.7a	.9a		.405a
Form																
Department specified	.5a	.48a	.4a	.5a		.5a		.104a	.41a	.231a		.5a				.405a
Interagency Agreements – Nondiscrimination Provisions						.5d										
Notice of United States' Right to Seek Judicial Enforcement			.4a		.504a						.4					
Others Required (e.g., contractors, subcontractors, and subgrantees)		.48a			.504a											
Pre-award Reviews Conducted Using Assurance and Data Provided by Applicant to Determine Compliance			.4h													
State Programs Receiving Continued Assistance			.4f													
Methods of administration found by Department to give reasonable assurance of compliance			.4f1													
Statement of compliance			.4f2													
Transferees		.48b1,c2	.4b1,c2	.5b1,c2	.504a,d	.5b1,c2		.104b	.41c			.5b1,2	.7a	.9b 1,2		406b1,d2
Volunteer Programs																
Work station assurances	.5c															
DISCRIMINATION-Prohibitions (*see also* **EDUCATION, EMPLOYMENT,** *and* **PROGRAM ACCESSIBILITY**)	.4	.23-.28	.63	.4	.503	.4	.4	.103	.16,.17	.121		.4	.4	.7	.55b	.404

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 118 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/26/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
DISCRIMINATION	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Activities and Areas Covered																
Administration criteria	.4b3	.26	.63b4	.4b4	.503b3	.4b4			.17c	.121b3		.4b4	.4b3	.7b4	.55bviii	.404b4
Discrimination	.4b3i	.26b	.63b4i	.4b4i	.503b3	.4b4i		.103b5	.17c1	.121b3i		.4b4i	.4b3i	.7b4i	.55bviiiA	.404b4i
Perpetuating discrimination by another recipient	.4b3iii	.26c	.63b4iii	.4b4iii	.503b3	.4b4iii		.103b5i	.17c3	.121b3iii		.4b4iii	.4b3iii	.7b4iii	.55bviiiB	.404b4iii
Program objectives – impairment with respect to handicapped persons	.4b3ii	.26a	.63b4ii	.4b4ii	.503b3	.4b4ii		.103b5ii	.17c2	.121b3ii		.4b4ii	.4b3ii	.7b4ii	.55bviiiC	.404b4ii
Auxiliary aids provision	.4f			.44d	.503f	.4b7	.4d	.103b3	.16c			.62d1			.55b4	.444d
Applicability criteria						.4b7	.4d	.103b3	.16c							
Amount of assistance															.55b4	
Number of beneficiaries					.503f											
Number of employees		.91b		52d1	.503f		.4d1					.62d1				
Nonexclusion of handicapped persons					.503f	.4b7i		.103b3	.16c							.444d1
Small recipients				.52d2	.503f	.4b7	.4d2					.62d2			.55b4	
Examples				.44d	.503f	.4b7ii	.4d3					.62e			.55b4	
Brailled material				.52d3	.503f	.4b7ii	.4d3					.62e			.55b4	
Captioned films															.55b4	
Equipment for those with manual impairments				.44d2		.4b7ii										.444d2
Interpreters		.90a		.52d3; .44d2	.503f	.4b7ii	.4d3					.62e				.444d2
Readers				.44d2	.503f	.4b7ii										.444d2
Sign language interpreters		.90b													.55b4	
Taped material				.44d2	.503f	.4b7ii	.4d3					.62e			.55b4	.444d2
Telecommunication devices					.503f		.4d3								.55b4	
Televised information and videotapes															.55b4	
Handicaps covered	.4f			.44d1	.503f	.4b7i	.4d	.103b3	.16c			.62d1			.55b4	.444d1
Manual	.4f			.44d1	.503f	.4b7i	.4d1	.103b3	.16c			.62d1			.55b4	.444d1
Sensory	.4f			.44d1	.503f	.4b7i	.4d1	.103b3	.16c			.62d1			.55b4	.444d1
Speaking	.4f			.44d1	.503f	.4b7i	.4d1	.103b3	.16c			.62d1			.55b4	.444d1
Maintain aids – not required at all times		.90a					.4d1									
Personal use – not required				.44d2	.503f	.4b7ii										.444d2
Training and employment programs						.4b7i										
Benefits, aids, services, goods or accommodations of programs								.103b1i			.3a,h-j					
Effective equity	.4b1iii	.24a3, .26	.63b2, .63b1ii	.4b2, .4b1iii		.4b2, .4b1iii		.103b2	.17a3	.121b1iii		.4b1iii, .4b2	.4b1iii	.7b1iii, .7b2	.55b1v, .55b3	.404b1iii .404b2
Equal opportunity to benefit	.4b1ii	.24a2	.63b1ii	.4b1ii	.503b1ii	.4b1ii		.103b1ii	.17a2	.121b1ii		.4b1ii	.4b1ii	[illegible]	.52b1i	.404b1ii

TOPIC	[illegible]ION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/26/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	[illegible]or-[illegible]on FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
DISCRIMINATION	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Activities and Areas Covered (Cont.)																
Separate or different	.4b1iv	.24a4	.63b1iv	.4b1iv	.503b1iii	.4b1iv		.103biv	.17a4	.21b1iv		.4b1iv	.4biv	.7b1iv	.55b1vi	.404b1iv
Communication to vision or hearing impaired effectively conveyed or available	.4a	.86-.94	.63d		.503a	.4a	.4a	.103b8	.16d	.121a	.3 - 1c	.4a	.4a	.7c	.55b1iii, .55g1iv	.404d
Brailled material															.55b1iii	
Taped material															.55b1iii	
Telecommunication devices		.87-.88													.55b1iii	
Televised information															.55b1iii	
Conference participation														.7b1vi		
Discrimination -- prohibition requirement	.4a		.63a	.4a	.503a		.4a	.103a	.16a	.121a		.4a	.4a	.7a		.404a
Eligibility for service determination		.23				.4a									.52b1v	
Facilities																
Federal aid -- acquired with		.24b	.63b6	.4b6	.503b6	.4b6		.103b7	.17a			.4b6		.7b6		.404b6
Location or design selection	.4b4	.27	.63b5	.4b5	.503b4	.4b5	.4d	.103b6	.17d	.121b4		.4b5	.4b4	.7b4	.52b4	.404b5
Handicapped persons																
Discrimination to users															.52b4iii	
Exclusion	.4b1i	.27a	.63b5i	.4b5i	.503b4	.4b5i	.4c	.103b6i	.17d1	.121b4i		.4b5i	.4b4i	.7b4i	.52b4i	.404b5i
Program objective impairment	.4b1ii	.27b	.63b5ii	.4b5ii	.503b4	.4b5ii		.103b6ii	.17d2	.121b4ii		.4b5ii	.4b4ii	.7b4ii	.52b3iii	.404b5ii
Handicapped person affected																
Applicants	.4a		.63d		.503a	.4a	.4a	.103b8	.16d	.121a		.4a	.4a	.7c	.55b1iii	.404d
Beneficiaries	.4a		.63d		.503a	.4a	.4a	.103b8	.16d	.121a		.4a	.4a	.7c	.55b1iii	.404d
Employees	.4a		.63d		.503	.4a	.4a	.103b8	.16d	.121a		.4a	.4a	.7c	.55b1iii	.404d
General public															.55b1iii	
Volunteers	.4a														.55b1iv	
Hearings -- public															.55b1iv	
Accessible															.55b1iv	
Notice made available to vision or hearing impaired															.52b5	
Imbalance of services ameliorated																
Integrated setting	.4d		.63b2	.4b2	.503d	.4b2, .4d		.103b2	.16a	.121b4d	.31a,g	.4b2, .4b5d	.4d	.7b2	.55b1ii, .55b3	.404b2
Intimidation or retaliation					.503b1vii											
Other areas of potential discrimination	.4b1vii	.24b7	.63b2vii, .63a	.4b1vii	.503g	.4b1vii		.103b1vii	.16a7	.121b1vii		.4b1vii	.4dvii	.7b1vii	.52b6	.404b2vii
Planning or advisory board memberships	.4b1vi	.24a6	.63b1vi	.4b1vi	.503biv	.4b1vi	.4f	.103b1vi	.17a6	.121b1vi		.4b1vi	.4d1vi	.7b1vi	.52b2	.404b1vi
Programs for handicapped																
Classes of handicapped persons excluded	.4c	.10	.63c	.4c	.503c	.4c		.103c	.16b	.121c		.4c	.4c	.7d	.55b2	.404c

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/25/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 108 5/31/79 49CFR27	Treasury Dept FRv48 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
DISCRIMINATION	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Activities and Areas Covered (Cont.)																
Nonhandicapped persons excluded	.4c	.10	.63c	.4c	.503c	.4c		.103c	.16b	.121c			.4c	.7d	.55b2	.404c
Participation	.4b1i	.24a1	.63b1i	.4b1i	.503b1i	.4b1i		.103b1i	.17a1	.121b1i		.4b1i	.4b1i	.7b1i	.55b1vii	.404b1i
Recipients' non-Federally funded programs					.503b5			.103b5								
Separate or different (specialized)	.4b2	.28	.63b3	.4b3	.503b2	.4b3	.4b	.103b4	.17b	.121b2		.4b3	.4b2	.7b3	.55b1i	.404b3
Provision of services to recipient's program					.503b1											
Relationship to programs that discriminate	.4b1v	.24a5	.63b1v	.4b1v	.503b1vi	.4b1v		.103b1v	.17a5	.121b1v		.4b1v	.4b1v	.7b1v		.404b1v
Separate treatment – policy approval													.4d			
Zoning authority nondiscrimination															.55b1ix	
EDUCATION – PRESCHOOL, ELEMENTARY, SECONDARY AND ADULT																
Educational Setting				.34												.434
Applicability				.34a												.434a
Academic setting				.34a												.434a
Alternate setting's proximity to person's home				.34a												.434a
Regular educational environment maximally integrated				.34a												.434a
Aids and services				.34a												.434a
Alternate facilities				.34c												.434c
Alternate services				.34c												.434c
Nonacademic setting				.34b												.434b
Maximally integrated setting to provide nonacademic & extracurricular services				.34b												.434b
Evaluation and Placement				.35												.435
Applicability				.35a												.435a
Placement procedures interpreted				.35c												.435c
Evaluation data and placement decisions				.35c												.435c
Educational setting requirements				.35c4												.435c4
Evaluation date Documentation procedures				.35c2												.435c2
Procedures to ensure careful consideration				.35c2												.435c2

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/25/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
EDUCATION -- PRESCHOOL, ELEMENTARY, SECONDARY, AND ADULT	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Evaluation and Placement (Cont.)																
Placement decisions made by persons who are knowledgeable				.35c3												.435c3
Child				.35c3												.435c3
Evaluation data				.35c3												.435c3
Placement options				.35c3												.435c3
Preplacement evaluation conducted prior to placement or change in placement				.35a												.435a
Procedures and standards for evaluation				.35b												.435b
Tests and other evaluation materials																
Administration				.35b1												.435b1
Instruction of test producer followed				.35b1												.435b1
Trained Personnel				.35b1												.435b1
Specific areas of educational need tested				.35b2												.435b2
Test results should not reflect sensory, manual, or speaking impairments unless designed to measure them				.35b3												.435b3
Validation				.35b1												.435b1
Reevaluations of special education students periodically				.35d												.435d
Education of the Handicapped Act as one method of complying				.35d												.435d
Source information -- variety				.35c1												.435c1
Adaptive behavior				.35c1												.435c1
Aptitude and achievement tests				.35c1												.435c1
Physical condition				.35c1												.435c1
Social or cultural background				.35c1												.435c1
Teacher recommendations				.35c1												.435c1
Free and Appropriate Education				.33												.433
Applicability				.33a												.433a
Appropriate education				.33b												.433b

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/25/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
EDUCATION – PRESCHOOL, ELEMENTARY, SECONDARY, AND ADULT	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Free and Appropriate Education (Cont.)																
Definition				.33b1												.433b1
Educational setting, evaluation and placement, and procedural safeguards requirements				.33b1ii												.433b1ii
Meeting needs of handicapped as adequately as those of nonhandicapped				.33b1i												.433b1i
Education of the Handicapped Act Individualized education program implementation to adequately meet needs of the handicapped				.33b2												.433b2
Nonrecipient program placement or referral conditions				.33b3												.433b3
Deadline for compliance				.33d												.433d
Free education				.33c												.433c
Definition				.33c1												.433c1
Fees for students				.33c1												.433c1
Fee payment for services provided outside the recipient's program				.33c1												.433c1
Insurer's obligations				.33c1												.433c1
Private school placements by parents (not required to pay when unnecessary)				.33c4												.433c4
Residential placement (no cost to handicapped person when necessary)				.33c3												.433c3
Transportation provided adequately to nonrecipient's program at no added cost				.33c2												.433c2
Nature or severity of handicap (free education provided to each qualified handicapped person regardless)				.33a												.433a
Identification, Location and Notification, Annually				.32												.432
Applicability				.32												.432
Identify and locate qualified handicapped persons who are not receiving a public education				.32a												.432a

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 8/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/26/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
EDUCATION – PRESCHOOL, ELEMENTARY, SECONDARY, AND ADULT	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Identification, Location and Notification, Annually (Cont.)																
Notify handicapped persons and their parents or guardians of recipient's duty				.32b												.432b
Nonacademic and Extra-curricular Services & Activities				.37												.437
Applicability				.37a												.437a
Counseling service programs provided				.37b												.437b
Career objective counseling				.37b												.437b
Nondiscrimination				.37b												.437b
Equal opportunity for participation				.37a1												.437a1
Examples				.37a2												.437a2
Counseling services, employment, health services, physical recreational athletics, referrals to agencies which provide assistance to handicapped persons, special interest groups or clubs, and transportation.				.37a2												.437a2
Physical education and athletics provided by recipients				.37c												.437c
Discrimination prohibited				.37c1												.437c1
Equal opportunity to participate				.37c1												.437c1
Separate or different treatment for handicapped provided				.37c2												.437c2
Compete for regular teams or participate in regular courses				.37c2												.437c2
Educational setting requirements--treatment must be consistent				.37c2												.437c2
Preschool and Adult Education				.38												.438
Discrimination prohibited				.38												.438
Needs of qualified handicapped persons considered				.38												.438
Private Education Programs, Elementary or Secondary				.39												.439
Cost of providing appropriate education to handicapped persons				.39b												.439b

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Humen Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/25/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 6/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
EDUCATION -- PRESCHOOL, ELEMENTARY, SECONDARY, AND ADULT	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Private Education Programs (Cont.)																
Charging more is justified only by substantial increased cost to recipient				.39b												.439b
Excluding qualified handicapped persons is prohibited when appropriate education can be provided with minor adjustments				.39a												.439a
Special education programs, provisions, governing operations				.39c												.439c
Procedural Safeguards Related to the Identification and Evaluation of Handicapped Persons and Their Placement in Special Education Programs				.36												.436
Applicability to recipients operating public elementary or secondary education programs				.36												.436a
Education of the Handicapped Act, Section 615, compliance can satisfy procedural safeguards requirement				.36												.436b
Notice				.36												.436a1
Procedural safeguards system, establishment of impartial hearings				.36												.436a3
Legal counsel representation				.36												.436a3
Parent or guardian participation				.36												.436a3
Records examination by parents or guardians				.36												.436a2
Review procedure				.36												.436a4
EDUCATION -- POSTSECONDARY																
Academic Adjustments				.44								.44				.444
Academic requirements -- modification to ensure nondiscrimination				.44a								.44a				.444a
Essential requirements will not be regarded as discriminatory				.44a								.44a				.444a
Examples				.44a								.44a				.444a
Course conduct adaptions				.44a								.44a				.444a
Course substitutions				.44a								.44a				.444a
Time period for completing degree requirements -- lengthened				.44a								.44a				.444a

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/25/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 48 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
EDUCATION – POSTSECONDARY	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Academic Adjustments (Cont.)																
Auxiliary aids				.44d								.44d				.444d
Aids of a personal nature – provision not required				.44d2												.444d2
Discrimination because of the absence of aids prohibited				.44d1								.44d1				.444d1
Examples				.44d2								.44d2				.444d2
Classroom equipment adaptions, interpreters, readers, taped texts				.44d2								.44d2				.444d2
Telecommunication devices												.44d2				
Examination or other course evaluation results must not reflect sensory, manual or speaking impairments unless designed for this purpose				.44c								.44c				.444c
Other rules limiting participation prohibited				.44b								.44b				.444b
Examples																
Dog guides prohibited in campus buildings, tape recorders prohibited in classrooms				.44b								.44b				.444b
Admissions and Recruitment				.42								.42				.442
Discrimination prohibited				.42a								.42a				.442a
Number or proportion limits of handicapped persons who may be admitted				.42b1								.42b1				.442b1
Preadmission inquiries regarding handicaps																
Permitted																
Accommodations, which after admission, may require identification of handicaps				.42b4								.42b4				.442b4
Voluntary action programs				.42c								.42c				.442c
Informing applicant																
Adverse treatment will not result upon refusal				.42c2								.42c2				.442c2
Confidentiality of information				.42c2								.42c2				.442c2
Use of information				.42c1,2								.42c1,2				.442c1,2
Voluntary basis of request				.42c2								.42c2				.442c2
Prohibited				.42b4								.42b4				.442b4

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5820 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/26/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 48 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 89437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
EDUCATION – POSTSECONDARY	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Admissions and Recruitment (Cont.)																
Tests or other selection criteria for admissions																
Administration & selection																
Accessible facilities				.42b3iii								.42b3iii				.442b3iii
Tests adapted for those with impairments administered frequently on timely basis				.42b3ii								.42b3ii				.442b3ii
Test results must not reflect sensory, manual or speaking impairments unless designed to measure them				.42b3i								.42b3i				.442b3i
Tests which have adverse impact on handicapped persons, permitted only if				.42b2								.42b2				.442b2
Alternative tests or other criteria are not shown by Department to be available				.42b2ii								.42b2ii				.442b2ii
Validated as a predictor of success in program				.42b2i								.42b2i				.442b2i
Validity studies				.42d								.42d				.442d
Conduct periodically				.42d								.42d				.442d
Prediction equations may be based on first-year grades				.42d								.42d				.442d
Applicability to Recipients That Operate Postsecondary Education Programs Including Vocational Education Programs				.41								.41				.441
Financial and Employment Assistance				.46								.46				.446
Financial assistance provision				.46a								.46a				.446a
Amount provided must not be lesser				.46a1i								.46a1i				.446a1i
Eligibility must not be limited				.46a1i								.46a1i				.446a1i
Entities that discriminate in providing assistance to recipient's students must not be assisted				.46a1ii								.46a1ii				.446a1ii
Scholarships or fellowships				.46a2								.46a2				.446a2
Factors determining some awards may be discriminatory				.46a2								.46a2				.446a2

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 88 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/25/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/6/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
EDUCATION -- POSTSECONDARY	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Financial and Employment Assistance (Cont.)																
Overall effect of awards must be nondiscriminatory				.46a2								.46a2				.446a2
Outside employment opportunities (recipient must assure itself of nondiscriminatory practices of any entities it assists)				.46b								.46b				.446b
Student employment -- nondiscrimination by recipient				.46c								.46c				.446c
Housing				.45								.45				.445
Other				.45b								.45b				.445b
Provided by recipient				.45a								.45a				.445a
Accessible				.45a								.45a				.445a
Choice of living accommodations of handicapped students -- comparable in scope				.45a								.45a				.445a
Comparable to that provided others				.45a								.45a				.445a
Convenient				.45a								.45a				.445a
Costs same				.45a								.45a				.445a
Nonacademic Services				.47								.46				.447
Counseling and placement service nondiscrimination				.47b								.46b				.447b
Career objectives counseling does not direct qualified handicapped persons toward more restrictive occupations				.47b								.46b				.447b
Career obstacles to handicapped -- counseling permitted to provide factual information				.47b								.46b				.447b
Physical education and athletics nondiscrimination				.47a1								.46a1				.447a1
Equal opportunity to participate				.47a1								.46a1				.447a1
Integrated setting most appropriate				.47a2								.46a2				.447a2
Opportunity to participate in regular activities not denied				.47a2								.46a2				.447a2
Separate or different programs for handicapped students				.47a2								.46a2				.447a2
Social organizations significantly assisted by recipient nondiscrimination practices				.47c								.46c				.447c

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/25/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 87 4/4/80 18CFR1307	Transportation FRv44 No. 108 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Advs FRv45 No. 187 9/24/80 38CFR18
EDUCATION – POSTSECONDARY	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Treatment of Students				.43								.43				.443
Discrimination in educational or extracurricular activities prohibited				.43a,c								.43a,c				.443a,c
Integrated setting of programs operated is most appropriate				.43d								.43d				.443d
Programs not operated by recipients, but considered as part of, or equivalent to, recipient's program provide equal opportunity				.43b								.43b				.443b
EMPLOYMENT																
Discrimination	.9	.60-.63	.66	.11	.510	.12	.6	.200	.31	.122	.3c	.11	.5	.31	.55g	.411
Collective bargaining agreements	.9e	.62b	.66c	.11c	.510d	.12c		.200c	.31e			.11c		.31c	.55g12	.411c
Compensation may not be reduced because benefits are received from another source					.510c	.12d										
General aspects of employment practices	.9a,b,d	.61-.62	.66a	.11a	.510a	.12a	.6a,b,d	.200a	.31a-c	.122a,b,d	.3c,3-1g	.11a	.5a	.31a	.55g1i-iv	.411a
Contractual and other relationships											.3d					
Civil service agencies					.510a3											
Employment and referral agencies	.9d	.62a	.66a3	.11a4	.510a3	.12a4	.6d	.200a4	.31c	.122d	.3d	.11a3	.5d	.31a4	.55g1ii	.411a3
Fringe benefits	.9d	.62a	.66a3	.11a4	.510a3	.12a4	.6d	.200a4	.31c	.122d	.3-1g;3d	.11a3	.5d	.31a4	.55g1ii	.411a3
Labor unions	.9d	.62a	.66a3	.11a4	.510a3	.12a4	.6d	.200a4	.31c	.122d	.3-1g;3d	.11a3	.5d	.31a4	.55g1ii	.411a3
Training or apprenticeship programs	.9d	.62a	.66a3	.11a4	.510a3	.12a4	.6d	.200a4	.31c	.122d	.3-1g;3d	.11a3	.5d	.31a4	.55g1ii	.411a3
Education of the Handicapped Act recipients				.11a2												
Employment discrimination	.9a	.60	.66a1	.11a2	.510a1	.12a1	.6a	.200a1	.31a	.122a	.3c	.11a2	.5a	.31a1	.55g1i,b2i	.411a1
Opportunities or status adversely affected by decisions	.9b	.61a,b	.66a2	.11a3	.510a2	.12a2	.6b	.200a3	.31b	.122b	.3c	.11a2	.5b	.31a2	.55g1iii	.411a2
Positive steps to employ and advance in employment				.11a2				.200a2								
Specific aspects of employment	.9c	.63	.66b	.11b	.510b	.12b	.6c	.200b	.31d	.122c	.3d	.11b	.5c	.31b	.55g1vA	.411b
Advertising	.9c1	.63a	.66b1	.11b1	.510b1	.12b1	.6c1	.200b1	.31d1	.122c1	.3d1	.11b1	.5c1	.31b1	.55g1vA	.411b1
Application processing	.9c1	.63a	.66b1	.11b1	.510b1	.12b1	.6c1	.200b1	.31d1	.122c1	.3d1	.11b1	.5c1	.31b1	.55g1vA	.411b1
Assignments	.9c4	.63d	.66b4	.11b4	.510b4	.12b4	.6c4	.200b4	.31d4	.122c4	.3d4	.11b4	.5c4	.31b4	.55g1vD	.411b4
Classifications	.9c4	.63d	.66b4	.11b4	.510b4	.12b4	.6c4	.200b4	.31d4	.122c4	.3d4	.11b4	.5c4	.31b4	.55g1vD	.411b4
Compensation	.9c3	.63c	.66b3	.11b3	.510b3	.12b3	.6c3	.200b3	.31d3	.122c3	.3d3	.11b3	.5c3	.31b3	.55g1vC	.411b3
Demotion	.9c2	.63b	.66b2	.11b2	.510b2	.12b2	.6c2	.200b2	.31d2	.122c2	.3d2	.11b2	.5c2	.31b2	.55g1vB	.411b2
Employer-sponsored activities																
Recreational	.9c8	.63h	.66b8	.11b8	.510b7	.12b8	.6c8	.200b8	.31d8	.122c8	.3d8	.11b8	.5c8	.31b8	.55g1vH	.411b8
Social	.9c8	.63h	.66b8	.11b8	.510b7	.12b8	.6c8	.200b8	.31d8	.122c8	.3d8	.11b8	.5c8	.31b8	.55g1vH	.411b8

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/25/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
EMPLOYMENT	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Discrimination (Cont.)																
Fringe benefits	.9c6	.63f	.66b6	.11b6	.510b3	.12b6	.6c6	.200b6	.31d6	.122c6	.3d6	.11b6	.5c6	.31b6	.55g1vF	.411b6
Hiring	.9c2	.63b	.66b2	.11b2	.510b2	.12b2	.6c2	.200b2	.31d2	.122c2	.3d2	.11b2	.5c2	.31b2	.55g1vB	.411b2
Layoff and return	.9c2	.63b	.66b2	.11b2	.510b2	.12b2	.6c2	.200b2	.31d2	.122c2	.3d2	.11b2	.5c2	.31b2	.55g1vB	.411b2
Leave	.9c5	.63e	.66b5	.11b5	.510b5	.12b5	.6c5	.200b5	.31d5	.122c5	.3d5	.11b5	.5c5	.31b5	.55g1vE	.411b5
Other terms, conditions, privileges of employment	.9c9	.63i	.66b9	.11b9	.510b5	.12b9	.6c9	.200b9	.31d9	.122c9	.3d9	.11b9	.5c9	.31b9	.55g1vI	.411b9
Organizational structures	.9c4	.63d	.66b4	.11b4	.510b8	.12b4	.6c4	.200b4	.31d4	.122c4	.3d4	.11b4	.5c4	.31b4	.55g1vD	.411b4
Position descriptions	.9c4	.63d	.66b4	.11b4	.510b4	.12b4	.6c4	.200b4	.31d4	.122c4	.3d4	.11b4	.5c4	.31b4	.55g1vD	.411b4
Progression	.9c4	.63d	.66b4	.11b4	.510b4	.12b4	.6c4	.200b4	.31d4	.122c4	.3d4	.11b4	.5c4	.31b4	.55g1vD	.411b4
Promotion	.9c2	.63b	.66b2	.11b2	.510b2	.12b2	.6c2	.200b2	.31d2	.122c2	.3d2	.11b2	.5c2	.31b2	.55g1vB	.411b2
Recruitment	.9c1	.63a	.66b1	.11b1	.510b1	.12b1	.6c1	.200b1	.31d1	.122c1	.3d1	.11b1	.5c1	.31b1	.55g1vA	.411b1
Rehiring	.9c2	.63b	.66b2	.11b2	.510b2	.12b2	.6c2	.200b2	.31d2	.122c2	.3d2	.11b2	.5c2	.31b2	.55g1vB	.411b2
Seniority lists	.9c4	.63d	.66b4	.11b4	.510b4	.12b4	.6c4	.200b4	.31d4	.122c4	.3d4	.11b4	.5c4	.31b4	.55g1vD	.411b4
Sick leave	.9c5	.63e	.66b5	.11b5	.510b5	.12b5	.6c5	.200b5	.31d5	.122c5	.3d5	.11b5	.5c5	.31b5	.55g1vE	.411b5
Tenure	.9c2	.63b	.66b2	.11b2	.510b2	.12b2	.6c2	.200b2	.31d2	.122c2	.3d2	.11b2	.5c2	.31b2	.55g1vB	.411b2
Termination	.9c2	.63b	.66b2	.11b2	.510b2	.12b2	.6c2	.200b2	.31d2	.122c2	.3d2	.11b2	.5c2	.31b2	.55g1vB	.411b2
Training -- selection and financial support	.9c7	.63g	.66b7	.11b7	.510b8	.12b7	.6c7	.200b7	.31d7	.122c7	.3d7	.11b7	.5c7	.31b7	.55g1vG	.411b7
Transfer	.9c2	.63b	.66b2	.11b2	.510b2	.12b2	.6c2	.200b2	.31d2	.122c2	.3d2	.11b2	.5c2	.31b2	.55g1vB	.411b2
Upgrading	.9c2	.63b	.66b2	.11b2	.510b2	.12b2	.6c2	.200b2	.31d2	.122c2	.3d2	.11b2	.5c2	.31b2	.55g1vB	.411b2
Volunteer service	.9a															
Work stations	.9f															
Employment Criteria (Job Qualifications)	.11	.69-.70	.68	.13	.512	.14	.6f	.202	.33	.124	.3e	.13	.5f	.35	.55i	.413
Tests or other selection criteria																
Administration procedures		.70	.68b	.13b	.512b			.202b	.33b	.124b	.3e			.35b	.55i2	.413b
Handicapped persons -- special problem accommodations	.11				.512b		.6f				.3e				.55i2	
Auxiliary aid examples					.512b						.3e				.55i2	
Test objectives					.512b										.55i2	
Test results																
Impairment not reflected		.70	.68b	.13b	.512b			.202b	.33b	.124b		.13b		.35b	.55i2	.413b
Handicapped persons screened or adversely impacted	.11	.69	.68a	.13a	.512a	.14a	.6f	.202a	.33	.124a	.3e	.13a	.5f	.35a	.55i1	.413a
Alternative job-related tests unavailable		.69a		.13a2	.512a2			.202a2	.33a2	.124a2		.13a2		.35a2	.55i1ii	.413a2
Class of handicapped persons disqualified															.55i3	
Job-related test		.69b	.68a1	.13a1	.512a1			.202a1	.33a1	.124a1		.13a1		.35a1	.55i1i	.413a1
Job qualifications based on selection procedures						.14										

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/25/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 86 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
EMPLOYMENT	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Employment Criteria (Cont.)																
Appropriateness reviewed						.14a										
Business necessity						.14b										
Job performance						.14b										
Safe performance						.14b										
Job-related test alternatives																
Availability		.69b		.13a2	.512a2			.202a2				.13a2		.35a2	.55i1ii	.413a2
Responsibility to identify		.69b		.13a2				.202a2				.13a2		.35a2	.55i1ii	.413c2
Listing of Employment Openings						.16										
Labor Unions and Recruiting and Training Agencies						.17										
Collective bargaining agreement revisions						.17a										
Public or private hearings necessitated						.17b										
Assistant secretary						.17b										
Policies and practices related						.17b										
Representatives given an opportunity to present their views						.17c										
Failure to cooperate						.17d										
Preemployment Inquiries*	.12	.71-.74	.69	.14	.513	.15	.6g**	.203	.34	.125	.3g	.14	.5g	.35	.55j	.414
Inquiries permitted																
Job-related function -- performance capability	.12a	.71	.69a	.14a	.513a	.15a		.203a	.34	.125		.14a	.5g2	.35a	.55j1	.414a
Remedial, voluntary or affirmative action programs	.12b	.72a1-3	.69b	.14b	.513b	.15b	84.14b	.203b	.34a	.125b	.3g	.14b	.5g3	.35b	.55j2	.414b
Handicapped (questions to determine if a person is)																
Adverse treatment will not result upon refusal to answer	.12b2	.72b4	.69b2	.14b2	.513b2	.15b2	84.14b2	.203b2	.34a2	.125b2	.3g1	.14b2	.5g3iii	.37b2	.55j2ii	.414b2
Confidentiality	.12b2	.72b3	.69b2	.14b2	.513b2	.15b2	84.14b2	.203b2	.34a2	.125b2	.3g1	.14b2	.5g3ii	.37b2	.55j2ii	.414b2
Use of information explained to applicant	.12b1,2	.72b1,5	.69b1,2	.14b1,2	.513b2	.15b1,2	84.14b1,2	.203b1,2	.34a1,2	.125b1,2	.3g1	.14b1,2	.5g3	.37b1,2	.55j2i	.414b1
Voluntary basis explained to applicant	.12b2	.72b2	.69b2	.14b2	.513b2	.15b2	84.14b2	.203b2	.34a2	.125b2	.3g1	.14b2	.5g3ii	.37b2	.55j2ii	.414b2
Inquiries prohibited																
Handicap (questions regarding nature or severity)	.12a	.71	.69a	.14a	.513a	.15a	84.14a	.203a	.34	.125a	.3a	.14a	.5g1	.37a	.55j1	.414a

*for Action, this includes pre-selection inquiries of applicants for volunteer positions.

**Legal Services Corporation has incorporated by reference the pre-employment inquiry standards from HHS' Section 504 regulations (45CFR 84.14(a)-(d)(2)).

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/25/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
EMPLOYMENT	1232	1012	1040	* 84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Pre-employment Inquiries (Cont.)																
Handicap (questions to determine if a person has)	..12a	.71	.69a	.14a	.513a	.15a	84.14a**	.203a	.34	.125a	.3e	.14a	.5g1	.37a	.55j1	.414a
Medical examinations – pre-employment												.14c	.5g4	.37c	.55j3	.414c
Entering employees	.12c1	.73a	.69c	.14c1	.513c1	.15c4	84.14c1	.203c1	.34b1	.125c1	.3f	.14c1	.5g4i	.37c1	.55j3i	.414c1
Federal law requirement													.5g4ii	.37a		.414b
Outcome not to be used to discriminate	.12c2	.73b	.69c	.14c2	.513a2	.15c2,3	84.14c2	.203c2	.34b2	.125c2		.14c2	.5g4ii	.37c2	.55j3ii	.414c2
Permissible	.12c	.73	.69c	.14c	.513c	.15c	84.14c	.203c	.34b	.125c	.3f	.14c	.5g4	.37c1	.55j2,3	.414c
Physician – qualified						.15c1										
Prohibited	.12a	.71	.69a	.14a	.513a	.15a	84.14a	.203a	.34	.125a	.3f	.14a	.5g1	.37a	.55j1	.414a
Records of medical conditions or history – confidential	.12d	.74	.69d	.14d	.513d	.15d	84.14d	.203d	.34c	.125d	.3f,g	.14d	.5g5	.37b2,d	.55j4	.414d
Compliance investigators – government	.12d3	.74c	.69d3	.14d3	.513	.15d4	84.14d3	.203d3	.34c3	.125d3	.3g2iii	.14d3	.5g5iii	.37d3	.55j4iii	.414d3
Employment official on conditional job offer or placement in job pool or on eligibility list	.12c	.73	.69c	.14c	.513c	.15d1	84.14c	.203c	.34b	.125c	.3f	.14c	.5g4	.37c	.55j3	.414c
First aid and safety personnel	.12d2	.74b	.69d2	.14d2	.513d2	.15d3	84.14d2	.203d2	.34b2	.125d2	.3g2ii	.14d2	.5g5ii	.37d2	.55j4ii	.414d2
Forms maintained separately	.12d	.74	.69d	.14d	.513	.15d	84.14d	.203d	.34c	.125		.14d	.5g5	.37d	.55j4	.414d
Supervisors and job accommodations	.12d1	.74a	.69d1	.14d1	.513d1	.15d2	84.14d1	.203d1	.34c1	.125d1	.3g2i	.14d1	.5g5i	.37d1	.55j4i	.414d1
Residual capacity functional assessments						.15c1										
Assessment factor examples						.15c1										
Results – specific and objective						.15c2										
Results use					.513f			.203c2			.3f					
Placement and reasonable accommodation						.15c3										
Procedures						.15c5										
Confidential job offer or placement in job pool or on eligibility list						.15c5i										
Final decision to make a job offer						.15c5ii										
Informing potential employees						.15c8										

***Legal Services Corporation has incorporated by reference the pre-employment inquiry standards from HHS' Section 504 regulations [45CFR 84.14(a)-(d)(2)].*

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 66 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/26/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
EMPLOYMENT	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Pre-employment Inquiries (Cont.)																
Medical examination results are last factor evaluated						.15c6i										
Results are transmitted to employing official and applicant only after a conditional decision to make a job offer						.15c6										
Screen qualified applicants						.15c3										
Reasonable Accommodation	.10	.64	.67d	.12	.511	.13	.6e	.201	.32	.123	.3-1d	.12	.5e	.33	.55h	.412
Applicants	.10a	.64	.67a	.12a	.511a	.13a	.6e	.201a	.32a	.123a	.3-1d	.12a	.5e1	.33a	.55h1	.412a
Consultation held with handicapped individual															.55h2II	
Employees	.10a	.64	.67a	.12a	.511a	.13a	.6e	.201a	.32a	.123a	.3-1d	.12a	.5e1	.33a	.55h1	.412a
Employment opportunity denial	.10b	.66	.67d	.12d	.511a	.13c	.6e3	.201d		.123d		.12d	.5e3	.33d	.55h4	.412d
Examples of accommodations	.10b	.65-.66	.67b	.12b	.511b	.3	.6e1	.201b	.32b	.123b	.3-1a	.12b	.5e1	.33b	.55h2	.412b
Alternative positions with comparable pay														.33b3		
Announcements readily understandable		.66a														
Communications accessible and usable		.65a														
Device acquisition or modification	.10b2	.65c	.67b2	.12b2	.511b	.3	.6e1II	.201b2	.32b2	.123b2	.3-1e	.12b2	.5e1II	.33b2	.55h2II	.412b2
Equipment acquisition or modification	.10b2	.65c	.67b2	.12b2	.511b	.3	.6e1II	.201b2	.32b2	.123b2	.3-1e	.12b2	.5e1II	.33b2	.55h2II	.412b2
Facilities accessible and usable	.10b1	.65a	.67b1	.12b1	.511b	.3	.6e1I	.201b1	.32b1	.123b1	.3-1e	.12b1	.5e1I	.33b1	.55h2I	.412b1
Interpreters	.10b2	.65d,66b	.67b2	.12b2	.511b	.3	.6e1II	.201b2	.32b2	.123b2	.3-1e	.12b2	.5e1II		.55h2II	.412b2
Job restructuring	.10b2	.65b	.67b2	.12b2	.511b	.3	.6e1II	.201b2	.32b2	.123b2	.3-1e	.12b2	.5e1II	.33b2	.55h2II	.412b2
Note takers		.65d														
Other similar actions	.10b2	.65c,66c	.67b2	.12b2	.511b		.6e1II	.201b2	.32b2	.123b2	.3-1e	.12b2	.5e1II	.33b2	.55h2II	.412b2
Readers	.10b2	.65d,66b	.67b2	.12b2	.511b	.3	.6e1II	.201b2	.32b2	.123b2	.3-1e	.12b2	.5e1II		.55h2II	.412b2
Work Schedules	.10b2	.65b	.67b2	.12b2	.511b	.3	.6e1II	.201b2	.32b2	.123b2	.3-1e	.12b2	.5e1II	.33b2	.55h2II	.412b2
Undue hardship	.10a	.64	.67a	.12a	.511c	.13a	.6e	.201a	.32a	.123a	.3-1d	.12a	.5e1	.33a	.55h1	.412a
Case-by-case analysis					.511c										.55h3	
Factors considered	.10c	.67	.67c	.12c3	.511c	.13b3	.6e	.201c	.32c	.123c	.3-1d	.12c	.5e2	.33c	.55h3	.412c
Accommodation nature and cost	.10c3	.67c	.67c3	.12c3	.511c3	.13b3	.6e2	.201c3	.32c3	.123c3	.3-1d	.12c3	.5e2I	.33c3	.55h3III	.412c3
Effect of accommodation on program													.5e2I			

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/25/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
EMPLOYMENT	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Reasonable Accommodation (Cont.)																
Operation type																
Program or activity type, composition and structure	.10c2	.67b	.67c2	.12c2	.511c	.13b		.201c	.32c	.123c	.3-1	.12c	.5e2	.33c	.55h3ii	.412c
Training program duration and type						.13b2										
Workforce composition and structure	.10c2	.67b	.67c2	.12c2	.511c2	.13b2		.201c2	.32c2	.123c2	.3-1	.12c2	.5e2ii	.33c2	.55h3ii	.412c2
Program accomplishments effected														.33c4		
Program size														.33c1		
Budget	.10c1	.67a	.67c1	.12c1	.511c1	.13b1	.6e1	.201c1	.32c1	.123c1	.3-1	.12c1	.5e2iii		.55h3i	.412c1
Number of employees	.10c1	.67a	.67c1	.12c1	.511c1	.13b1	.6e1	.201c1	.32c1	.123c1	.3-1		.5e2iii	.33c1	.55h3i	.412c1
Number and type of facilities	.10c1	.67a	.67c1	.12c1	.511c1	.13b1	.6e1	.201c1	.32c1	.123c1	.3-1d1	.12c1	.5e2iii	.33c1	.55h3i	.412c1
Number of participants						.13b1					.3-1d1					
Volunteers	.10a										.3-1f					
HEALTH, WELFARE AND SOCIAL SERVICES																
Applicability				.51								.61				.451
Auxiliary Aids to Afford Equal Opportunity to Benefit from Services Provided	.4f	.86		.52d	.503f	.4b7	.4d					.62d			.55b4	.452d
Applicability																
Number of employees				.52d1	.503f		.4d					.62d1				.452d1
Small recipients				.52d2	.503f		.4d					.62d2			.55b4	.452d2
Examples																
Brailled material				.52d3	.503f	.4b7	.4d					.62d3			.55b4	.452d3
Interpreters				.52d3	.503f	.4b7	.4d					.62d3			.55b4	.452d3
Taped material				.52d3	.503f	.4b7	.4d					.62d3			.55b4	.452d3
Discrimination in Providing Service -- Prohibitions				.52a								.62a				.452a
Denying services prohibited				.52a1								.62a1				.452a1
Equal opportunity to receive same services				.52a2								.62a2				.452a2
Equally effective services				.4b2,.52a3								.4b2,.62a3				.404b2,452a3
Limited participation of handicapped -- must not provide services in such manner				.52a4								.62a4				.452a4
Separate or different services prohibited except where necessary to provide equally effective services				.52a5								.62a5				.452a5

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/26/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
HEALTH, WELFARE AND SOCIAL SERVICES	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Drug and Alcohol Addicts – Discrimination Prohibited in Admission or Treatment				.53								.63				.453
Education of Institutionalized Persons Provided				.54												.454
Emergency Treatment for Hearing Impaired--Establish System for Effective Communication				.52c								.62c				.452c
Notice of Services or Written Material Concerning Waivers of Rights or Consent to Treatment Provided				.52b								.62b				.452b
PROGRAM ACCESSIBILITY																
Communication Access																
Brailling Service (see "reader")																
Discrimination resulting from inaccessible or unusable communication		.86														
Interpreter service		.90-.91														
Notice of availability		.90d														
Provision required		.91														
Applicants for program participation		.91a														
Employees		.91b														
Job applicants		.91b														
Participants		.91a														
Reasonable notice		.90a														
System to provide interpreter established		.90a														
Appropriate interpreters		.90b														
Examples		.90b														
Manual, American Sign Language, Finger-spelling, Signed English		.90b														
Mode of communication		.90b														
Oral		.90b														
Person's preferred mode		.90b														
Permanent		.90a														
Qualified interpreters		.90c														
Interpreter's degree of skill		.90c														
Preferred mode – accurate and fluent one-way and/or two-way communication		.90c														

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/25/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/6/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
PROGRAM ACCESSIBILITY	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Communications Access (Cont.)																
Reliable		.90a														
Reader, taping and Brailling service		.92-.93														
Notice of availability		.92														
Provision required		.93														
Applicants for program participation		.93a														
Employees		.93b														
Job applicants		.93b														
Participants		.93a														
Reasonable notice		.92														
System to provide service established		.92														
Appropriate service		.92														
Permanent		.92														
Reliable		.92														
Simplified language		.94														
Taping (*see* "reader")																
Telecommunication devices for the deaf		.88														
Availability of recipient through TDD		.88a														
Grantees available by phone must be equally available through TDD		.88a														
Maintain and reliably answer at least one TDD		.88a														
Presumption of need for own TDD		.88c														
High frequency of calls on a shared TDD		.88c1														
Written request for installation of a TDD from potential users		.88c1														
Shared systems		.88b														
Description		.87														
Telephones available to public		.89														
Amplifiers		.89a														
Hearing aid compatibility		.89b														
Discrimination Resulting from Inaccessible or Unusable Facilities Prohibited	.13	.106,.131	.71	.21	.520	.26	.5a	.300	.21	.126		.15	.6a	.63	.55k1	.421

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 8/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/26/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 48 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
PROGRAM ACCESSIBILITY	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Existing Facilities	.14	.131-.137	.72	.22	.521	.27	.5	.301	.22	.127	.3-3a	.16	.6b	.65	.55k2i	.422
Accessibility of programs											.3-3a			.65a		
Programs readily accessible	.14a	.133	.72a	.22a	.521a	.27a	.5b	.301a	.22a	.127a		.16a	.6b1	.65a	.55k2i	.422a
Program in its entirety		.133	.72a	.22a	.521a	.27a	.5b	.301a				.16a	.6b1	.65a	.55k2i	.422a
Programs available at one location only						.27a										
Recipient's options																
Alternative accessible site(s)						.27a										
Site accessibility						.27a										
Usable programs	.14a		.72a		.521a		.5b		.22a	.127a	.3-3a		.6b1		.55k2i	
Compliance procedures (methods)	.14b	.134	.72b	.22b	.521b	.27c	.5b	.301b	.22b	.127b		.16b	.6b	.65b	.55k2ii	.422b
Integrated setting		.134b		.22b	.521b		.5b	.301b	.22b	.127b		.16b		.65b	.55k2ii	.422b
Lease revocation not required															.55k2i	
Definition		.132														
Nonstructural changes	.14b	.134a	.72b	.22b	.521c	.27a,c	.5b	.301b	.22b	.127b		.16b	.6b1	.65b	.55k2ii	.422b
Aides assigned to beneficiaries			.72b	.22b	.521c	.27c		.301b		.127b		.16b			.55k2ii	.422b
Assisting handicapped persons into or through inaccessible facilities					.521d								.6b1	.65c		
Building reassignment			.72b	.22b	.521b	.27c		.301b		.127b		.16b			.55k2ii	.422b
Equipment acquisition or redesign			.72b	.22b				.301b		.127b		.16b		.65b	.55k2ii	.422b
Facility reassignment						.27c							.6b1			
Home visits		.134a	.72b	.22b				.301b		.127b		.16b			.55k2ii	.422b
Other nonstructural methods		.134a	.72b	.22b	.521b	.27c		.301b		.127b		.16b		.65b		.422b
Relocation of meetings		.134a														
Site alternatives		.134a	.72b	.22b	.521b	.27c		.301b		.127b		.16b	.6b1		.55k2ii	.422b
Job Corps Centers						.27b2										
Time period		.135	.72a-d	.22d	.521d	.27d		.301c	.22c	.127c		.16c			.55k4	.422d
Referrals to accessible programs											.3-3				.55k3	
Structural changes	.14a-c	.134	.72a-d	.22a-d	.521a-d	.27a-e	.5b	.301a-d	.22a-d	.127a-d		.16a-d	.6a-c	.65a-d	.55k2-5	.422a-d
Applicability																
Small provider referrals				.22c	.521c	.27b3					.3-3				.55k3	.422c
Time period	.14b	.135	.72c	.22d	.521d	.27d		.301c	.22c	.127c	.3-3a	.16c		.65c	.55k4ii	.422d
Transition plan in writing	.14c	.136	.72d	.22e	.521d	.27e		.301d	.22d	.127d	.3-3a	.16d	.6b2	.65d	.55k5	.422e
Applies to any recipient who needs to make structural changes to provide program access	.14c	.136a	.72d	.22e	.521d	.27e		.301d	.22d	.127d		.16d	.6b	.65d	.55k5	.422e

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 88 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/28/79 45CFR1624	NASA FRv44 No. 178 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 68 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 87 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
PROGRAM ACCESSIBILITY	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Existing Facilities (Cont.)																
Approval			.72d							.127d			.6b2			
Date of completion of changes specified													.6b2iv			
Facilities to be modified and identified	.14c1					.27d1								.65d1,4		
Implementation – person(s) responsible	.14c6	.136d6	.72d4	.22e4	.521d4	.27e4		.301d4	.22d4	.127d4		.16d4	.6b2iii	.65d6	.55k5iv	.422e4
Names, addresses, phone numbers		.136d														
Interested persons who assisted with development	.14c	.136c	.72d	.22e	.521d	.27e		.301d	.22d	.127d	.3-3a	.16d	.6b2i	.65d	.55k5	.422e
List of those consulted		.136d										.16d5		.65d		
Names, addresses, phone numbers		.136d6														
Inventory of existing facilities		.136d1														
Methods to be used described	.14c	.136d3	.72d2	.22e2	.521d2	.27e2		.301d2	.22d2	.127d2.	.3-3a	.16d2	.6b2	.65d3	.55k5ii	.422e2
Physical objects limiting program accessibility identified		.136d2	.72d1	.22e1	.521d1	.27e1		.301d1	.22d1	.127d1		.16d1		.65d2	.55k5i	.422e1
Priorities for making changes		.136d4														
Public inspection	.14c		.72d	.22e	.521d	.27e		.301d	.22d	.127d		.16d	.6b2ii	.65d	.55k5	.422e
Schedule specified for making changes	.14c	.136d3	.72d3	.22e3	.521d3	.27e3		.301d3	.22d3	.127d3		.16d3		.65d5	.55k5iii	.422e3
Submit to operating administration														.65d		
Submit to funding agency		.136b													.55k5	
Surrounding area accessibility														.65d1		
Extent														.65d4		
Methods for accomplishing														.65d4		
Time period	.14c	.136b	.72d	.22e	.521d	.27e		.301d	.22d	.127d		.16d	.6b2	.65d	.55k5	.422e
Historic Properties			.74										.6c			
Architectural integrity preservation			.74a1										.6c			
Historical character preservation			.74a1										.6c			
Program accessibility methods			.74a										.6c			
Building alterations			.74a2										.6c			
Nonstructural changes			.74a1										.6c			
Accessible locations – reassignment within facility			.74a1j													

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 8/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/25/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 48 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 59437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
PROGRAM ACCESSIBILITY	1232	1012	1040	84	42	32	1824	1251	1151	4	113	142	1307	27	51	18
Historic Properties (Cont.)																
Alternative accessible sites			.74a1iii													
Aids assigned to assist handicapped persons into or through a facility			.74a1ii													
Other innovative methods			.74a1iv													
Priority of methods			.74a													
Program in its entirety			.74a													
Structural changes			.74a3													
Significant element or feature preservation			.74a2,3										.6c			
Waiver or modification of accessibility standards			.74b													
Application to Director			.74b													
Infeasibility of providing access demonstrated			.74b													
Substantial impairment to architectural, historical or cultural integrity demonstrated			.74b													
New Construction	.15	.106-.109	.73	.23	.522	.28	.5d	.302	.23	.128	.3-3b,c	.17	.6d	.67	.55k7	.423
Accessibility requirement		.108														
Accessible entrance provision		.108														
Exterior access provision		.108														
Interior access provision		.108											.6d			
Between entrance and each level and area																
Open to public		.108a														
People in residence		.108c														
Used by employees		.108b														
Between each accessible area -- a fire-safe means of egress or refuge		.108d														
Applicability																
Effective date for regulations occurred before construction commenced	.15a	.107	.73a	.23a	.522a	.28a		.302a				.17a	.6d	.67a	.55k7	.423a
Exceptions to requirement															.55k10,11	
Federally-funded construction commenced after 1968												.17a				
Other deadline dates before construction													.6d		.55k7, 8	
Compliance standards		.109														

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv46 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/25/79 45CFR1624	NASA FRv44 No. 176 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 69437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
PROGRAM ACCESSIBILITY	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
New Construction (Cont.)																
American National Standards Institute (ANSI) accessibility standards	.15b	.109a1,b	.73c	.23c	.522b			.302c	.23b	.128b	.3-3c	.17c		.67d	.55k9	.423a
Contract specifications													.6d			
Departures from prescribed standards	.15b	.109a2	.73c	.23c	.522b			.302c	.23b	.128b	.3-3c	.17c		.67d	.55k9	.423c
General Services Administration (GSA) accessibility standards																
Design and construction of new facilities or parts of facilities																
Accessible facilities		.108												.67a		
Readily accessible facilities	.15a		.73a	.23a		.28a	.5d	.302a	.23a	.128a	.3-3c	.17a			.55k7	.423a
Usable facilities	.15a	.108	.73a	.23a		.28a	.5d	.302a	.23a	.128a	.3-3c	.17a		.67a	.55k7	.423a
Existing facility alterations affecting access and use																
Accessible		.108												.67b		
Readily accessible	.15a		.73a	.23b		.28b	.5d	.302b	.23a	.128a	.3b	.17b			.55k8	.423b
Usable	.15a	.108	.73a	.23b		.28b	.5d	.302b	.23a	.128a	.3b	.17b		.67b	.55k8	.423b
Vehicles accessible and usable																
New														.67a		
Existing renovations						.28c								.67c		
Substantial														.67c		
Lesser														.67c		
New Facilities -- Renting or Purchasing							.5c									
Accessibility of facility -- statement of certification							.5c									
Submit prior to entering contract							.5c									
Inaccessible facilities -- description of efforts to obtain accessible space							.5c									
Accessible services -- steps to ensure availability							.5c									
Justification for selecting inaccessible facility							.5c									
Reasons for selecting inaccessible facility							.5c									

TOPIC	ACTION FRv44 No. 105 5/30/79 45CFR1232	Community Svs Adm FRv48 No. 5620 1/19/81 45CFR1012	Energy FRv45 No. 116 6/13/80 10CFR1040	Health & Human Svs FRv42 No. 86 5/4/77 45CFR84	Justice FRv45 No. 108 6/3/80 28CFR42	Labor FRv45 No. 196 10/7/80 29CFR32	Legal Svs Corp FRv44 No. 187 9/26/79 45CFR1624	NASA FRv44 No. 178 9/10/79 14CFR1251	Nt'l Endowment Arts FRv44 No. 75 4/17/79 45CFR1151	Nuclear Reg Comm FRv45 No. 46 3/6/80 10CFR4	Small Business Adm FRv44 No. 66 4/4/79 13CFR113	State Dept FRv45 No. 89437 10/21/80 22CFR142	TVA FRv45 No. 67 4/4/80 18CFR1307	Transportation FRv44 No. 106 5/31/79 49CFR27	Treasury Dept FRv46 No. 1120 1/5/80 31CFR51	Veterans Adm FRv45 No. 187 9/24/80 38CFR18
PROGRAM ACCESSIBILITY	1232	1012	1040	84	42	32	1624	1251	1151	4	113	142	1307	27	51	18
Notices of Program Accessibility		.137	.72e	.22f	.521e	.27f		.301e		.127e		.18e		.65e	.55k6	.422f
Information conveyed		.137	.72e	.22f	.521e	.27f		.301e		.127e		.18e		.65e	.55k6	.422f
Availability																
Interested persons		.422f	.72e	.22f	.521e	.27f		.301e		.127e		.18e		.65e	.55k6	.422f
Mentally handicapped		.137b	.72e		.521e											
Vision or hearing impaired		.137b	.72e	.22f	.521e	.27f		.301e		.127e		.18e		.65e	.55k6	.422f
Services, activities and facilities - accessible and usable		.137a1	.72e	.22f	.521e	.27f		.301e		.127e		.18e		.65e	.55k6	.422f
Existence			.72e	.22f	.521e	.27f		.301e		.127e		.18e		.65e	.55k6	.422f
Location			.72e	.22f	.521e	.27f		.301e		.127e		.18e		.65e	.55k6	.422f
Provisions		.137a2														
Transition plan contents		.137a3														
Programs and Activities		.148														
Administration																
Equal opportunity - measures to ensure		.148														
Eligibility requirements - qualified handicapped persons must not be excluded		147														
Program design		.150														
Low-income handicapped population in need of service, but unqualified because of handicap to participate in regular program		.150a														
Factors considered to determine feasibility of a similar program		.150b														
Modifications needed		.150b3														
Severity of need		.150b2														
Size of population to be served		.150b1														
Limiting participation because adapted programs are available is prohibited		.150c														
Handicapped persons being required to participate in adapted programs is prohibited		.150c														
Qualified handicapped persons participating in regular programs		.150c														
Recruitment and outreach equally effective		.149														

SECTION I

APPENDIX

LIST OF DEPARTMENTS HAVING FEDERAL REGULATIONS, GUIDELINES, OR REQUIREMENTS

The following federal departments have established regulations, requirements or guidelines that may be reviewed by securing copies of the appropriate Federal Register, or Code of Federal Regulations.

AGENCY	LOCATION		
	Federal Register	Code of Federal Regulations	Date Published
ACTION 806 Connecticut Avenue, N.W. Washington, D.C. 20525 202-254-3116 Attention: Arthur Fergeson General Councel	Vol. 44 # 105 pg. 31038	45 CFR 1232	5/30/79
COMMUNITY SERVICES ADMINISTRATION Closed September 30, 1981 Regulations were repealed Sept. 30, 1981	Vol. 46 # 5620	45 CFR 1012	1/19/81
DEPARTMENT OF ENERGY 1000 Independence Avenue, S.W. Washington, D.C. 20585 Mail - 4B112 202-252-2244 Attention: Marsha Harrison or Charles Agnew	Vol. 45 # 116 pg. 40514	10 CFR 1040	6/13/80
DEPARTMENT OF HEALTH AND HUMAN SERVICES 330 Independence Avenue, S.W. Washington, D.C. 20201 202-245-9177 Attention: Ed Redmon OR 50 United Nations Plaza, Room 409 San Francisco, CA 94102 415-556-3923 Attention: Jim Perez	Vol. 42 # 86 pg. 22676	45 CFR 84	5/4/77
DEPARTMENT OF JUSTICE Office of Justice Assistance 633 Indiana Avenue, N.W. Room 1268 Washignton, D.C. 20531 202-724-7792 Attention: John J. Wilson Acting General Counsel	Vol. 45 # 108 pg. 37620	28 CFR 42	6/3/80
DEPARTMENT OF LABOR Office of Civil Rights 450 Golden Gate Avenue San Francisco, CA 94102 415-556-4025 Attention: Juanita J. Braud Equal Opportunity Officer OR 200 Constitution Avenue, N.W. Washington, D.C. 20210 202-523-8905 Attention: Noelia Fernandez	Vol. 45 # 196 pg. 66706	29 CFR 32	10/7/80
LEGAL SERVICES CORPORATION 733 Fifteenth Street, N.W. Washington, D.C. 20005 202-272-4010 Attention: Phyllis Fong Office of General Counsel	Vol. 44 # 187 pg. 55175	45 CFR 1624	9/25/79
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION 400 Maryland Avenue Washington, D.C. 20024 202-755-3160 Attention: Richard Wolf Office of General Counsel	Vol. 44 # 176 pg. 52680	14 CFR 1251	9/10/79
NATIONAL ENDOWMENT FOR THE ARTS 2401 E Street, N.W. Washington, D.C. 20506 202-634-6588 Attnetion: Susan Liberman Assistant General Counsel	Vol. 44 # 75 pg. 22731	45 CFR 1151	4/17/79
NUCLEAR REGULATORY COMMISSION U.S. Nuclear Regulatory Commission Washington, D.C. 20555 301-492-7697 Attention: Edward E. Tucker EEO Director	Vol 45 # 46 pg. 14533	10 CFR 4	3/6/80
SMALL BUSINESS ADMINISTRATION 1441 L Street, N.W. Room 1200 Vermont Bldg. Washington, D.C. 20416 202-653-6054 Attention: Doris Docket	Vol. 44 # 66 pg. 20068	13 CFR 113	4/4/79

APPENDIX I-A (Continued)

AGENCY	LOCATION		
	Federal Register	Code of Federal Regulations	Date Published
DEPARTMENT OF STATE 2201 C Street, N.W. Washington, D.C. 20520 202-632-3022 Attention: Paul Coran	Vol. 45 pg. 69437	22 CFR 142	10/21/80
TENNESSEE VALLEY AUTHORITY 400 Commerce Avenue, E11B25 Knoxville, Tenn 37902 615-632-2361 Attention: Justin Schwamm, Sr. Assistant General Counsel	Vol. 45 #67 pg. 22893	18 CFR 1307	4/4/80
DEPARTMENT OF TRANSPORTATION 400 Seventh Street, S.W. Washington, D.C. 20590 202-426-4388 Attention: Leslie Baldwin Program Coordinator	Vol. 44 # 106 pg. 31442	49 CFR 27	5/31/79
DEAPRTMENT OF TREASURY 2401 E Street, N.W. 14th Floor Washington, D.C. 20226 202-634-5337 Attention: Malaku J. Steen	Vol. 46 #1120 pg. 77356	31 CFR 51	1/5/80
VETERANS ADMINISTRATION 1425 K Street, N.W. Washington, D.C. 20420 006B4 202-389-2943 Attention: Marion Slachta	Vol. 45 #187 pg. 63264	38 CFR 18	9/24/80

SECTION II

ABSTRACTS OF COURT CASES

TOPIC INDEX OF ABSTRACTS ON ADMINISTRATIVE DECISIONS

Topic	Plantiff/Defendant	Court	Reference	Index Page
Architectural Accessibility	A&TBCB v. HUD	A&TBCB 3/17/78	12-77-4	13
	A&TBCB v. Department of Interior	A&TBCB 6/19/78	3-77-1	13
	A&TBCB v. DHEW and GSA	A&TBCB 1/31/79	6-77-2	14
	A&TBCB v. GSA and Piedmont Courtland Associates	A&TBCB 6/11/80	2-80-6	14
Definition of Handicap	OFCCP v. American Airlines	DOL 6/30/80	79-OFCCP-2	14,15
Employment	OFCCP v. E.E. Black Ltd., et al	DOL 2/26/79	77-OFCCP-7-R	15,16
	OFCCP v. Certain-Teed Corporation	DOL 1/31/80	80-OFCCP-36	16
	OFCCP v. Western Electric Company	OFCCP 3/4/81	80-OFCCP-29	17
	OFCCP v. Texas Industries, Inc.	DOL 6/10/81	80-OFCCP-28	17,18

TOPIC INDEX OF ABSTRACTS ON COURT CASES

Topic	Plantiff/Defendant	Court	Reference	Index Page
Administrative Requirements	Cherry v. Mathews	District DC 1976	412 F. Supp. 922	20
Complaints	Lloyd v. Regional Transportation Authority	7th Circuit 1/18/77	548 F. 2nd 1277	22
	Drennon v. Philadelphia General Hospital	Eastern District, PA 1/31/77	428 F. Supp. 809	22
	Crawford v. University of North Carolina	Middle Dist, NC 11/1/77	440 F. Supp. 1047	44
	Michigan Paralyzed Veteran of America v. Coleman	District MI 11/3/77	451 F. Supp. 7	23
	Sherer v. Waier	Western District, MO 1977	457 F. Supp. 1039	43
	Jane Doe v. New York University	Southern District, NY 1/3/78	442 F. Supp. 552	23
	Davis v. Bucher	Eastern District, PA 5/31/78	451 F. Supp.	23
	Duran v. City of Tampa	Middle District, FL 6/15/78	451 F. Supp. 954	24
	Jane and Janet Doe, et al v. Grile, et al	Northern District, IN 8/9/78	F. Supp. No.F77-108	24
	Whitaker v. Board of Higher Education of the City of New York	Eastern District, NY 10/17/78	N. 77C 2258	48
	Trageser v. Libbie Rehabilitation Center, Inc.	4th Circuit 12/18/78	F.2d	64

Topic	Plantiff/Defendant	Court	Reference	Index Page
Complaints	Doe v. Colantti	Eastern District, PA 1978	454F. Supp. 621	25
	Jessup v. Chicago and Eastern Illinois Railroad	Northern District, IL 1978	22 F.E.P. Cases 1376	65
	Hooper v. Equifax, Inc	6th Circuit 11/28/79	611 F. 2d. 134	25
	Doe v. Kroger	Northern District, IN 12/3/79	480 F. Supp. 225	50,51
	Silverstein v. Sisters of Charity of Leavenworth Health Services Corp	County Appeals, CO 12/20/79	No. 78-135	26
	Anderson v. Erie Lackawannon Railway Co.	District, OH 1979	468 F. Supp 394	65
	Coleman v. Darden	10th Circuit 1979	595 F. 2d 533	26
	Harris v. Campbell	Eastern District, VA 1979	472 F. Supp. 51	52,53
	Hart v. County of Alameda	Northern District, CA 1979	No.C-79-0081 WHO	27
	Johnson v. Brelji	Northern District, IL 1979	482 F. Supp. 125	27
	Johnson v. Solomon	District, MD 1979	484 F. Supp. 278	28
	NAACP v. Wilmington Medical Center, Inc.	3rd Circuit 1979	599 F. 2nd 1247	28
	Zorick v. Tynes	Florida 1979	372 So. 2d 133	66
	Miener v. State of Missouri, et al	Eastern District, MO 1/25/80	No. 79-1050 C(2)	29
	Patton v. Dumpson, et al	Southern District, NY 1/28/80	75 Civil 4922	29

Topic	Plantiff/Defendant	Court	Reference	Index Page
Complaints	Rogers v. Frito-Lay, Inc Moon v. Roadway Express, Inc.	Fifth Circuit 2/15/80	611 F.2d.1074	30
	Clark v. Felec Services, Inc.	District Court, AL	F79-34 Civil	30
	Medley v. Ginsburg	Southern District, WVA 6/10/80		31
	Camenisch v. University of Texas	5th Circuit 1980	616 F. 2d 127	56
	Davis v. United Airlines, Inc.	Eastern District, NY 1980	25 F.E.P. Cases 565	31
	Kling v. County of Los Angeles	Ninth Circuit 1980	633 F.2d 876	32
	Langman v. Western Electric Co.	Southern District, NY 1980	488 F. Supp. 680	32
	Moon v. Atchison, Topeka and Santa Fe Railway Co.	District KN 1980	22 F.E.P. Cases 1252	33
	United States v. Cabrini Medical Center	Southern District, NY 1980	23 F.E.P. Cases 78	69
	Cain v. Archdiocese of Kansas City	District KS, 1981	508F.Supp	33
	Meyerson v. State of Arizona	District, AZ 1981	507 F.Supp.859	34
Definition of Handicap	Doss v. General Motors, Corp.	Central District, IL 1979	478 F. Supp. 139	36
	GASP v. Mechlenberg County	State Court, NC 1979	256 S.E. 2d 477	36
	Larry P. v. Riles	Northern District, CA 1979	F. Supp. No. C-71 2270 RFP	53
	Upshur v. Love	Northern District, CA 1979	442 F. Supp. 322	37
	Simpson v. Reynolds Metal Company, Inc.	7th Circuit 1980	23 F.E.P. Cases 868	37

Topic	Plantiff/Defendant	Court	Reference	Index Page
Discrimination	Sites v. McKenzie	Northern District, WA 11/12/76	423 F. Supp.1190	41
	Neeld v. American Hockey League	Western District, NY 10/25/77	439 F. Supp. 459	39
	Massachusetts Coalition of Citizens with Disabilities v. Civil Defense Agency & Office of Emergency Preparedness	First Circuit 1981	649 F. 2d 71	39
Education	Hairston v. Drosick	Southern District, WVA 1/14/76	423 F. Supp. 180	41
	Sites v. McKenzie	Northern District, WVA 11/12/76	423 F. Supp. 1190	41
	Kampmeir v. Nyquist	2d Circuit 4/15/77	553F. 2d 296	42
	Campbell v. Kruse	Supreme Court 10/3/77	No. 76-1704	42
	Barnes v. Converse College	District, SC 1977	436 F. Supp. 635	43
	Halderman v. Pennhurst State School and Hospital	Eastern District, PA 1977	446 F. Supp 1295	43
	Sherer v. Waier	Western District, MO 1977	457 F. Supp. 1039	43
	Donnie R. v. Wood	District, SC 8/77	No. 77-1360	44
	Crawford v. University of North Carolina	Middle District, NC 11/1/77	440 F. Supp. 1047	44
	Frederick L. v. Thomas	3rd Circuit 12/17/77	557 F. 2d 373	44
	Stuart v. Nappi	District, CN 1/4/78	443 F. Supp. 1235	45
	Grimard v. Carlston	1st Circuit 1/13/78	567 F. 2d 1171	45

Topic	Plantiff/Defendant	Court	Reference	Index
Education	Lopez v. Salida School District	District Court County of Denver, CO January 1978	C.A. No. C-73078	45
	Southeastern Community College v. Davis	4th Circuit 3/28/78	574 F. 2d 1158	46
	Lora v. Board of Education of City of New York	Eastern District, NY 6/2/78	456 F. Supp. 1211	46
	Howard S. v. Friendswood Independent School District	Southern District, TX 6/23/78	454 F. Supp. 634	47
	Mattie T. v. Holloday	Northern District, MS 7/78	No. 75-31-S	47
	North Carolina Association for Retarded Citizens v. State of Northern Carolina Board of Public Education	Eastern District, NC July 1978	C.A. No. 3050	48
	Whitaker v. Board of Higher Education of the City of New York	Eastern District, NY 10/17/78	No. 77C 2258	48
	Guempell v. New Jersy	Superior Court, NJ Law Division 1978	387 A. 2d 399,159 NJ Supp 166	49
	S.I. v. Turlington	Southern District, FL 6/15/79	635 F.2d 342	49
	Sherry v. New York State Education Department, et al	Western District, NY 11/5/79	479 F. Supp 1328	50
	Doe v. Kroger	Northern District, IN 12/3/79	480 F. Supp. 225	50,51
	New York State Association For Retarded Children Inc., et al v. Carey Coughlin v. Board of Education of the City of New York	2nd Circuit 12/10/79	612 F. 2d 644	51

Topic	Plantiff/Defendant	Court	Reference	Index Page
Education	Tatro v. State of Texas	Northern District, TX 12/21/79	481 F. Supp. 1224	52
	Boxall v. Sequoia Union High School District	Northern District, CA 1979	464 F. Supp. 1104	52
	Harris v. Campbell	Eastern District, VA 1979	472 F. Supp. 51	52,53
	Larry P. v. Riles	Northern District, CA 1979	F.Supp No. C-71-2270 RFP	53
	Stemple v. Board of Education Prince George's County	District, MD 1979	464 F. Supp 258	54
	New Mexico Association for Retarded Citizens, et al v. State of New Mexico, et al	District, NM 1/8/80	No. 75-633-M Civil	54
	Miener v. State of Missouri, et al	Eastern District,MO 1/25/80	No. 79-1050 C(2)	29
	Kruelle v. New Castle County School District	3rd Circuit 4/1/80	Nos. 80-1875 1876,2063,2064	55
	Adashunas v. Nigby	7th Circuit 1980	626 F. 2d 600	55
	Camenisch v. University of Texas	5th Circuit 1980	616 F. 2d 127	56
	Doe v. Marshall	5th Circuit 1980	622 F. 2d 118	56
	Parents in Action on Special Education (PASE) v. Hannon	Northern District, IL 1980	506 F. Supp. 831	56,57
	Poole v. South Plainfield Board of Education	District, NJ 1980	490 F. Supp. 948	57
	Riley v. Ambach	Eastern District, NY 1980	508 F. Supp.1222	57,58

Topic	Plantiff/Defendant	Court	Reference	Index Page
	Selelyo v. Drury	Southern District, OH 1980	508 F. Supp. 122	57
	Board of Education of Northport East Northport School District v. Amback	New York State 2d 1981	436 2d 546	59
	Georgia Assoc. of Retarded Citizens v. McDaniel	Northern District, GA 1981	511 F. Supp. 1263	60
Education	Nelson v. Tuscarora Intermediate Unit No. II	PA 1981	426 A 2d 1234	60,61
	Pinkerton v. Moya	Western District, VA 1981	109 F. Supp. 107	61
Employment	Gurmankin v. Costanzo	3d Circuit 4/25/77	556 F. 2d 184	63
	Ryan v. Federal Deposit Insurance Corporation	DC Circuit 10/25/77	565 F. 2d 762	63
	Wood v. Diamond State Telephone Co.	District, DL 11/22/77	440 F. Supp 1003	64
	Duran v. City of Tampa	Middle District, FL 6/15/78	451 F. Supp.954	24
	Trageser v. Libbie Rehabilitation Center, Inc.	4th Circuit 12/18/78	F. 2d	64
	Jessup v. Chicago and Eastern Illinois Railroad	Northern District, IL 1978	22 F.E.P. Cases 1376	65
	Silverstein v. Sisters of Charity of Leavenworth Health Services Corp.	Court of Appeals, CO 12/20/79	No. 78-135	26
	Anderson v. Erie Lachawann Railway	District, OH 1979	468 F. Supp 394	65

Topic	Plantiff/Defendant	Court	Reference	Index Page
Employment	Coleman v. Darden	10th Circuit 1979	595 F. 2d 533	26
	Doss v. General Motors, Corp.	Central District, IL 1979	478 F. Supp. 139	36
	Hart v. County of Alameda	Northern District, CA 1979	No. C-79-0081	27
	Neal v. U.S. Postal Service	District, UT 1979	468 F. Supp. 258	66
	Zorick v. Tynes	Florida 1979	372 So. 2d 133	66
	Chaplin and Epilepsy Foundation of America v. Consolidated Edison of NY, Inc., et al	Southern District, NY	79 Cir. 730 (MEL)	67
	Brinkley v. Dept. of Public Safety	Northern District, GA 1/25/80	Nos. C-75-157R C78-115R	67
	Coleman v. Casey County Board of Education	Western District, KY 3/26/80		68
	Carmi v. Metropolitan St. Louis Sewer District	8th Circuit 5/6/80	No. 79-1325	68
	E.E. Black, Ltd v. Marshall	District, HI 9/5/80	23 F.E.R. 1253	69
	Simpson v. Reynolds Metal Co., Inc.	7th Circuit 1980	23 F.E.P. Cases 868	
	United States v. Cabrini Medical Center	Southern District, NY 1980	23 F.E.P. Cases 78	69
	Auffant v. Searle and Co.	(not available)	25 FEP Cases 1254	70
	Brown v. Sibley	5th Circuit 1981	650 F. 2d 760	70

Topic	Plantiff/Defendant	Court	Reference	Index Page
Employment	Cain v. Archdiocese of Kansas City	District, KS, 1981	508 F. Supp.	71
	Doe v. Syracuse School District	Northern District, NY 1981	508 F. Supp. 333	71,72
	Hall v. Board of County Commissioners of Frederick County	District, MD 1981	15 F.E.P. Cases 567	72
	Marin v. New York State Department of Labor	Southern District, NY 1981	512 F. Supp 353	72
	Meyerson v. State of Arizona	District, AZ 1981	507 F. Supp. 859	34
	Miller v. Abilene Christian University of Dallas	Northern District, NY 1981	517 F. Supp. 437	73
	Reynolds v. Ross	Northern District, NY 1981	25 F.E.P. Cases 462	74
	Ross v. Allen	Southern District, NY 1981	515 F. Supp. 972	74
	Sabol v. Board of Education	District, NY, 1981	508 F. Supp. 333	75
	Simon v. St. Louis County	8th Circuit 1981	26 F.E.P. Cases 1003	75
	Wiggins v. U. S. Postal Service	Fifth Circuit, 1981	653 F. 2d 219	76
Placement	Kentucky Association of Retarded Citizens v. Connecticutt	Western District, KY 1980	510 F. Supp. 1233	79

Topic	Plantiff/Defendant	Court	Reference	Index Page
Transportation	Bartels v. Biernat	Eastern District, WI 2/14/77	427 F. Supp. 226	81
	Snowden v. Birmingham-Jefferson Jefferson County Transit Authority	5th Circuit 4/21/77	407 F. Supp. 394	81
	Philadelphia Council of Neighborhood Organizations v. Coleman	Eastern District, PA 9/12/77	437 F. Supp. 1341	82
	Leary v. Crapsey	2d Circuit 12/13/77	5567.2d 803	82
	Vanko v. Finley	Northern District, OH 1977	440 F. Supp. 656	83
	Altantis Community. Inc. v. Adams	District, CO 6/30/78	453 F. Supp. 825	83
	Disabled in Action of Pennsylvania Incorporated v. Coleman	Eastern District, PA 1978	48 F. Supp. 109	84
	American Public Transit Association, et al v. Goldschmidt, et al	District, D.C. 2/7/79	No. 79-1679	84
	United Handicapped Federation v. Andre	8th Circuit 1980	622 F. 2d 342	85

ADMINISTRATIVE DECISIONS

ADMINISTRATIVE DECISIONS - ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (A&TBCB)

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Architectural Accessibility	A&TBCB v. HUD	A&TBCB 3/17/78	12-77-4

SYNOPSIS

Privately-owned residential structures, even if federally financed, are not subject to Architectural and Transportation Barriers Compliance Board jurisdiction

An administrative law judge has dismissed a citation issued by the Architectural and Transportation Barriers Compliance Board to the Department of Housing and Urban Development. HUD was proceeded against because it helped fund construction of two dormitory towers which allegedly are inaccessible to physically handicapped persons. However, the administrative law judge held that the buildings are "privately owned residential structures not leased by the government for subsidized housing programs."

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Architectural Accessibility	A&TBCB v. Department of Interior	A&TBCB 6/19/78	3-77-1

SYNOPSIS

Architectural Barriers Act requires reinstallation of Union Station elevators to facilitate access and use by the handicapped

An administrative law judge ruled that the Department of the Interior must make the Union Station-National Visitors Center (Washington, D.C.) more accessible to physically handicapped persons by reinstalling two elevators connecting the station's lower and upper platforms. Another party to the case, the Washington Terminal Company, is to provide electrically-powered cart services to transport nonambulatory persons between the two platform levels while the elevators are under construction.

ADMINISTRATIVE DECISIONS - ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (A&TBCB)

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Architectural Accessibility	A&TBCB v. DHEW and GSA	A&TBCB 1/31/79	6-77-2

SYNOPSIS

Architectural Barriers Act requires renovation of GSA Southeastern Program Service Center to facilitate access and use by the handicapped

The Department of Health, Education, and Welfare and the General Services Administration (GSA), have been ordered by an administrative law judge to make the Southeastern Program Service Center accessible to physically handicapped persons. The judge found that A&TBCB standards were being violated and waved the federal agencies' contention that the changes would be too costly and disruptive.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Architectural Accessibility	A&TBCB v. GSA and Piedmont Courtland Associates	A&TBCB 6/11/80	2-80-6

SYNOPSIS

Architectural Barriers Act requires renovation of 101 Marietta Tower to facilitate access and use by the handicapped

The GSA and an Atlanta management firm have been ordered by an administrative law judge to make an Atlanta office building accessible to handicapped persons by taking eight corrective actions to ensure access, including the installation of a passenger elevator by September 1, 1980.

ADMINISTRATIVE DECISIONS - OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS (OFCCP)

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Definition of Handicap	OFCCP v. American Airlines	DOL 6/30/80	79-OFCCP-2

SYNOPSIS

"Qualified handicapped individual" refers to particular job in question and employer has

This case arose as an administrative complaint against American Airlines resulting from the termination in 1974 of a fleet service clerk because of the employee's

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Definition of Handicap	OFCCP v. American Airlines	DOL 6/30/80	79-OFCCP-2

SYNOPSIS (continued)

affirmative action obligation to make a reasonable accommodation for that handicap unless it would work an undue hardship on the conduct of its business

epilepsy and because his position involved the operation of motor vehicles. The company relocated the employee in a similar, nondriving position. The employee worked successfully for two years until he was discharged after continued warnings for repeated lateness and absences without notice. The OFCCP attempted to link these two situations in the complaint to demonstrate a "pattern of discrimination". The administrative law judge, however, found there was no relation between these two occurrences and dismissed the portion of the complaint relating to the final discharge of the employee in 1977. The decision focuses on the events surrounding the termination of the employee's duties as a fleet service clerk at the Philadelphia airport in 1974. The judge first refused to consider a defense raised by American Airlines alleging invalidity of OFCCP regulations implementing the Rehabilitation Act, noting lack of jurisdiction of an administrative tribunal to question the validity of legislation it administers. The judge also rejected the airline's defense that the complaint was time-barred. The balance of the decision explores the definition of a "qualified handicapped individual". The judge first found that the "particular job" required that employees drive several types of motorized equipment. After considering evidence, the judge concluded that the contentions of OFCCP that American Airlines could have reasonably accommodated the employee at the Philadelphia facility were without merit. Since this employee could not perform the essential driving duties of the position in question, the judge found that he did not meet the definition of a qualified handicapped individual set out in the OFCCP regulations. American Airlines had no affirmative action obligation to so employ this person.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment	OFCCP v. E.E. Black Ltd., et al	DOL 2/26/79	77-OFCCP-7-R

SYNOPSIS

Labor Department has the authority to order payment of back pay by federal contractors that violate the Rehabilitation Act

The Assistant Secretary for Employment Standards Administration (Department of Labor) had granted an individual a back-pay award because he is a "qualified handicapped individual" because of a back injury which was detected during a

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment	OFCCP v. E.E. Black Ltd., et al	DOL 2/26/79	77-OFCCP-7-R

SYNOPSIS (continued)

Protections of Section 503 are extended to every handicapped individual whose impairment is a bar to employment which the individual is currently capable of performing

pre-employment examination. The Assistant Secretary disagreed with the OFCCP administrative law judge who held that a "disabling" impairment was required. The Assistant Secretary held that, since the individual is capable of performing all of the physical functions of the position he sought (carpenter's apprentice), he was wrongfully discriminated against on the basis of his impairment. The Assistant Secretary ruled that a federal contractor's affirmative action obligations are not confined to federal contract jobs but extend (absent a waiver) to any position he seeks to fill for any of his operations. The Assistant Secretary ordered the contractor to come into compliance with the Rehabilitation Act requirements and to make an immediate offer of employment to the individual. He also ordered the contractor to pay the individual back pay, and remanded the issue of the amount of back pay to the administrative law judge.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment	OFCCP v. Certain-Teed Corporation	DOL 1/31/80	80-OFCCP-36

SYNOPSIS

Employer agrees to offer "next available position" to individual alleging Section 503 violation

Administrative complaint filed with the Department of Labor alleged violation of Section 503. The individual alleged he was rejected by a federal contractor because of a back condition discovered during a pre-employment physical which he claimed was illegal because it was unrelated to the job for which he was applying. The administrative law judge approved the OFCCP order approving the entry of consent findings stating that if a job similar to that for which the plaintiff originally applied becomes available within the next five years (in or around the area where the plaintiff lives), the position will be offered to the plaintiff.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment	OFCCP v. Western Electric Company	OFCCP 3/4/81	80-OFCCP-29

SYNOPSIS

Layoff or termination of disabled employee is within the purview of Section 503

Section 503 uses language of express limitation and requires that federal contractors comply with the affirmative action requirements of Section 503 only in employing persons to carry out federal contracts in excess of $2,500

An administrative law judge has ruled that the language and purpose of Section 503 "do not reveal an intent to impose affirmative action obligations on contracts unrelated to a federal contract. This case arose as an administrative complaint against Western Electric Company on behalf of a handicapped employee of Western, Mr. Jobe. Jobe was disabled and placed on a "disability leave of absence" until notified his employment terminated because of his inability to perform the work. The judge determined, as an initial issue, that Western's decisions to place Jobe on disability leave of absence and to terminate his employment (effective retroactively) were employment practices under the Rehabilitation Act although Jobe had not worked since the effective date of the Act. The key issue was "whether Section 503 gives the Department of Labor jurisdiction over all contracts, activities, or facilities of a party who enters into a contract with the United States." The judge found the language of Section 503 (a) and (b) expressly limits the coverage of the Act to employees employed to carry out those procurement contracts made with the United States which are in excess of $2,500. The judge reasoned that Congress could have made the affirmative action provision applicable to all employees of a federal contractor and found further support for limiting the scope of Section 503 in the legislative history of the Act. The judge held the Department of Labor did not have jurisdiction to bring a complaint against Western for violation of Mr. Jobe's rights under Section 503.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment	OFCCP v. Texas Industries, Inc.	DOL 6/10/81	80-OFCCP-28

SYNOPSIS

Section 503 regulations take broad view of definition of "handicapped person"

OFCCP filed an administrative complaint on behalf of Joann Norris, an applicant for the position of bulk cement truck driver with Texas Industries, Inc., alleging that the defendant violated Section 503 of the Rehabilitation Act in refusing

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment	OFCCP v. Texas Industries, Inc.	DOL 6/10/81	80-OFCCP-28

SYNOPSIS (continued)

Employer's requirement of physical examination of applicants for truck driver's position is consistent with business necessity and job safety and does not automatically screen out handicapped individuals

to hire a qualified handicapped individual, by screening out handicapped applicants through the use of physical qualifications which are not job related and are not consistent with business necessity and job safety, and by refusing to make reasonable accommodations. The complainant has a medical history of back problems and has undergone surgery as a result of a congenital deformity. Upon application for employment and routine physical examination, the physician refused to certify that the complainant met the Department of Transportation's (DOT) minimum mental and physical requirements for safe truck operation.

The judge noted that cement truck drivers must perform a variety of strenuous tasks and are subjected to considerable shaking and bouncing as the vehicle enters and leaves paved roadways. The judge also reviewed medical testimony which revealed that the plaintiff's back could spasm at any time, resulting in a safety hazard. The judge first determined that a review pending another administrative agency did not preclude a determination by the DOL. The complainant's congenital back anomaly was found to place her squarely within the definition of a handicapped person for coverage of the Act. But the judge noted the impairment clearly barred her from the employment of her choice. Although she was capable of operating a cement truck, the medical testimony was more to the issue of safe operation than capability. The defendant in this action was shown to require a physical examination of all applicants to insure job safety and the judge found this did not automatically disqualify an applicant because of previous back surgery. The judge concluded that the defendant could not be required "to disregard the results of physical examinations that are so clearly related to job safety and hire the complainant as a bulk cement truck driver."

He also concluded that to relieve the complainant of the heavy work would have required providing an additional employee to assist her, a great financial burden for the defendant, exceeding the bounds of "reasonable" accommodations, and therefore the complaint was dismissed.

ADMINISTRATIVE REQUIREMENTS

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Administrative Requirements	Cherry v. Mathews	District Court DC 1976	419 Fed. Supp. 922

Department of Health, Education and Welfare is required to promulgate regulations implementing Section 504

SYNOPSIS

The court ruled that the legislative history of Section 504 of the Rehabilitation Act of 1973 shows that Congress intended "swift implementation: of Section 504 by means of a "comprehensive set of regulations." Consequently, the court ordered the Department of Health, Education, and Welfare to promulgate regulations to effectuate Section 504 with "no further unreasonable delays."

112

113

COMPLAINTS

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints: Private Right of Action	Lloyd v. Regional Transportation Authority	Seventh Circuit Court IL 1/18/77	548 F. 2d 1277

SYNOPSIS

Section 504 of the Rehabilitation Act establishes a private right of action

Plaintiffs sought preliminary injunction against the Chicago transportation authority to prevent it from designing or placing into operation any facilities that were inaccessible to the plaintiffs. The Court of Appeals held that Section 504, when considered with its implementing regulations, establishes an affirmative right to sue and remanded the case to the District Court for further proceedings.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints: Private Right of Action	Drennon v. Philadelphia General Hospital	Eastern District Court PA 1/31/77	428 Fed. Supp. 809

SYNOPSIS

Department of Labor has primary jurisdiction over claims under Section 503 of the Rehabilitation Act, and administrative remedies must be exhausted

Sections 503 and 504 both give a private right of action

Court has jurisdiction over claims brought under the Civil Rights Act and the Fourteenth Amendment

Suit alleged violations of the Fourteenth Amendment to the U.S. Constitution, Sections 503 and 504 of the Rehabilitation Act and the Civil Rights Act arising out of denial of employment based on disability. The court ruled that it had "federal question" jurisdiction over the defendant hospital and municipality under 28 U.S.C. 1331, and that the plaintiff stated a cause of action under the Fourteenth Amendment and the Civil Rights Act. The court ruled that a private cause of action is available under Section 503 of the Rehabilitation Act, and adopted the holdings of other courts that have found an implied right to private action under Section 504. The court stayed further proceedings pending exhaustion of administrative remedies and a determination of the plaintiff's claims by the Department of Labor, stating that there is no "manifest injustice" in requiring such administrative redress to be sought first because the court is retaining jurisdiction over the action.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints: Private Right of Action	Michigan Paralyzed Veterans of America v. Coleman	District Court MI 11/3/77	451 Fed. Supp. 7

Section 504 of the Rehabilitation Act confers private right of action Summary judgment denied because of unresolved issues of fact affecting rights of mobility-handicapped persons to accessible public trans.

SYNOPSIS

Action brought by elderly and handicapped persons to enjoin the Southeastern Michigan Transportation Authority from purchasing public transportation vehicles that are inaccessible to mobility handicapped persons.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints: Exhaust Administrative Remedies	Jane Doe v. New York University	Southern District Court NY 1/3/78	442 Fed. Supp. 552

SYNOPSIS

Injunction denied under Section 504 of the Rehabilitation Act when administrative remedy is available and the plaintiff has not shown irreparable harn

The plaintiff, who had taken a leave of absence from medical school, sought a preliminary injunction compelling the school to readmit her. The court determined that complaints of discrimination against the handicapped were being processed by the Regional Office of the Department of Health, Education, and Welfare, and held that this administrative remedy must be exhausted before the plaintiff could seek relief in court.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints: Private Right of Action	Davis v. Bucher	Eastern District Court PA 5/31/78	451 Fed. Supp.

SYNOPSIS

Discrimination in hiring based on former drug use by job applicant prohibited by Rehabilitation Act and United States Constitution

Three former drug users sued the City of Philadelphia claiming that they had been denied employment on the basis of their former drug use. The judge concluded that drug addiction is a handicap as defined in Section 504, and stated that its ruling was supported by an analysis of the Rehabilitation Act. The court further held that the Act conferred a private right of action.

113

117

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints: Private Right of Action Employment: Hiring	Duran v. City of Tampa	FLA 6/15/78	HRH IV:A:13 451 Fed. Supp. 954

SYNOPSIS

Refusal of city police department to hire applicant because of childhood epilepsy violated federal Constitution and Rehabilitation Act of 1973

The plaintiff, denied a position as a policeman because of his childhood history of epilepsy, although he had passed the police examinations, brought suit alleging violation of the Fourteenth Amendment to the U.S. Constitution and his rights under the Rehabilitation Act. The court found that the plaintiff's rights had been violated and ordered that the plaintiff be employed if he successfully passed his medical examination. The court assumed that the plaintiff had a private right of action under Section 504.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints	James & Janet Doe, et al v. Grile et al	Northern District Court Ind. 8/9/79	HRH IV:A:52 Fed. Supp. No. F 77-108

SYNOPSIS

Under Section 504, exhaustion of administrative remedies is not a prerequisite to a court action where administrative remedy would be inadequate

The plaintiffs sought monetary relief and an injunction requiring the defendant to tc immediately hire three certified special education teachers and to train all in-service personnel in educational first-aid techniques. The court ruled that the plaintiffs could not obtain class certification and denied the defendant's motion to dismiss or stay the court proceedings pending Department of Health, Education and Welfare administrative action. The court reasoned that exhaustion of administrative remedies is not prerequisite to a court proceeding where the machinery for administrative enforcement of the plaintiffs' rights has not yet been established.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints	Doe v. Colautti	Eastern District Court PA 1978	454 Fed. Supp. 621

SYNOPSIS

State law limitation on benefits for inpatient care in psychiatric hospital does not violate Section 504

The case contended that a 60-day limitation on medical assistance benefits for inpatient psychiatric care violated both Section 504 of the Rehabilitation Act of 1973 and equal protection rights. The court concluded that health services are to be evaluated separately and that "a provider need do no more than provide handicapped persons with the same services it provides to non-handicapped persons." The court noted that "it is now well-settled that a handicapped individual has an implied private right of action" under Section 504.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints: Private Right of Action	Hooper v. Equifax, Inc.	Sixth Circuit Court 11/28/79	611 F 2d. 134

SYNOPSIS

Sixth Circuit Court ruled that Section 503 provides no private right of action

The plaintiff was an employee of the defendant for more than 19 years, making credit investigations and reports. After contracting emphysema, his work production suffered and he failed to meet his production quota. The plaintiff refused to retire and was later discharged. The court summarily disposed of the plaintiff's Section 503 claim stating that: Even if appellant is a handicapped person under the Vocational Rehabilitation Act of 1973, that statute provides for an administrative remedy through the Department of Labor and does not authorize a private cause of action in the courts. The court also held that the employment contract contained no provision as to duration of employment and therefore was terminable at the will of either party.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints Employment	Silverstein v. Sisters of Charity of Leavenworth Health Services, Corporation	Court of Appeals CO 12/20/79	NO/ 78-135

SYNOPSIS

Section 504 does not apply where the only form of federal aid received by a hospital is Medicare and Medicaid benefits Colorado handicap discrimination statute prohibits, per se, exclusion of epileptic from consideration for hospital employment involving patient care

The state Appeals Court followed the Fourth Circuit Court's decision in Tragesar holding that Section 504 does not permit a private action where providing employment is not a primary objective of federal received by the employer. The basis of the suit was the defendants' refusal to employ the plaintiff, an epileptic, as a respiratory therapist. Although the federal law was not applicable, the court found the defendant to be in violation of state law and entered judgment for the plaintiff.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints Employment	Coleman v. Darden	Tenth Circuit Court 1979	595 F. 2d 533

SYNOPSIS

The Rehabilitation Act does not imply a private cause of action, alleging employment discrimination on the basis of handicap, against federal agency officials

A blind individual brought an action against federal officials claiming discrimination on the basis of physical handicap in violation of the Rehabilitation Act of 1973 and the Fifth Amendment. The court found that, under the Rehabilitation Act, there is no implied private cause of action against federal defendants, and a federal agency is not to be considered a program or activity receiving federal financial assistance.

123

124

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints Employment	Hart v. County of Alameda	Northern District Court CA 1979	No. C-79-0091WHO

SYNOPSIS

Handicapped persons have private rights of action under Sections 503 and 504

The plaintiff alleged that he was refused permanent employment solely because he has epilepsy. The federal District Court denied the defendant's motion to dismiss the action because Sections 503 and 504 do not grant a private right of action, holding that Congress intended those statutory provisions to be privately enforced. Additionally, the 1978 amendments to the Rehabilitation Act provide that remedies under Title VI of the Civil Rights Act, which include a private right of action, be available to any person aggrieved under Section 504. According to the court, this evidence refutes the court's conclusion in Tragesar that no private remedy is available under Section 504 for employment discrimination unless a major objective of the federal financial aid is to provide employment.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints	Johnson v. Brelji	Northern District Court IL 1979	428 Fed Supp. 125

SYNOPSIS

Under Section 504, plaintiffs must exhaust administrative remedies prior to filing a judicial action

The plaintiff, civilly committed and involuntarily hospitalized in a maximum security hospital, complained about the procedures by which he was assigned to the hospital facility, ladk of periodic reviews, and the living conditions he was forced to endure while confined in the state hospital. The court dismissed the claim under Section 504 because the plaintiff had not first pursued available administrative recourse.

125

126

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints	Johnson v. Solomon	District Court MD 1979	484 Fed. Supp. 278

SYNOPSIS

Court refused, on the eve of the trial, to permit amendment of complaint to include claims under Section 504

The plaintiffs filed suit under the Fourteenth Amendment and Maryland statutes for declaratory and injunctive relief from the procedures and standards by which juveniles were civilly committed to mental institutions. While finding that the plaintiffs satisfied all the requirements, the court refused to allow them to amend their original complaint to include a claim under Section 504 because it would only generate additional paperwork and legal argument, and would have little effect on the remedy derermined by the court.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints	National Association for the Advancement of Colored People v. Wilmington Medical Center, Inc.	Third Circuit Court 1979	599 F. 2d 1247

SYNOPSIS

Private right of action implicit in Section 504 for plaintiffs seeking declatory and injunctive relief

The plaintiffs contended that the move of a medical facility from inner Wilmington to an outlying suburb would cause disparities in the accessibility and quality of medical care available to urban and suburban residents. The Appeals Court found that a private cause of action is implicit in Section 504, and that the plaintiffs became entitled to a trail of their case on its merits.

123

127

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints Education	Miener v. State of Missouri, et al	Eastern District Court MO 1/25/80	No 79-1050 C(2)

SYNOPSIS

Section 504 provides no private right of action for damages

The plaintiff, a seventeen-year-old state mental hospital resident suffering from mental and physical disorders, alleged that the defendants discriminated against her in violation of Section 504, and also failed to provide her an appropriate education in violation of the Education of the Handicapped Act. The court decided that Section 504 does provide for private suits to enforce the Rehabilitation Act, even without prior resort to administrative remedies, however, the court steadfastly refused to infer such a private right where the requested relief is for damages. The court also concluded that a private damage action is not authorized by the Education of the Handicapped Act.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints	Patton v. Dumpson, et al	Southern District Court NY 1/28/80	75 Civ. 4922

SYNOPSIS

Section 504 authorizes private suits for damages

A federal District Court in New York has ruled that actions brought under Section 504 for monetary damages are permissible. The suit was on behalf of a handicapped child who became the legal responsibility of public and private child welfare agencies after he was avandoned by his mother in 1969 was brought against the executive heads of the welfare agencies solely for money damages, alleging failure to provide adequate care. The court recognized that Section 504 authorizes private actions for injunctive relief, also that monetary damages are available under the Civil Rights Act of 1974, as well as under Title IX. The plaintiff was not obligated to exhaust his administrative remedies, the court ruled, because here, such remedies were inadequate, The court also held that the doctrine of respondent superior applies to Section 504 actions with respect to public agencies and their officials. Thus, the fact that the plaintiff is suing public officials individually in their representative capacities is sufficient to hold the public officials vicariously liable for the acts of their subordinates. However, the court dismissed the action, stating that identity of interest is not presumed between private corporations and their officers.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints	Rogers v. Frito Lay, Inc. Moon V. Roadway Express, Inc.	Fifth Circuit Court 2/15/80	611 F. 2d-1074

SYNOPSIS

Fifth Circuit Court rules that Section 503 does not provide a private right of action

The cases involved the same issue: whether Section 503 confers a private right of action to handicapped individuals allegedly discriminated against by federal contractors. The court required a greater showing of congressional intent in the legislative history of Section 503 before it would infer a private right of action. The court also concluded that legislative intent militates against an inferred right of action. The court found that Section 503's express administrative remedy, as implemented by the regulations, suggests that a private right of action would interfere with the legislative scheme, and stated that because these factors militate against implying a private right of action, the plaintiffs failed to meet their burden of proof. The U.S. Supreme Court, on October 6, 1980, let stand the lower court ruling.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints	Clark v. Felec Services, Inc.	District Court AK 5/5/80	F79-34 Civil

SYNOPSIS

Implied private right of action under Section 503 has existed at least since the addition of Section 505 authorizing award of attorneys' fees to the prevailing party in any action or proceeding to enforce or charge violation of the Rehabilitation Act

The plaintiff, terminated from his position as an electrician leadman, claimed his termination was due to his handicap which did not significantly affect the performance of his job responsibilities. The court, in finding that a private right of action does permit the plaintiff to bring a judicial action in his own behalf under Section 503, looked to the provisions of Section 505 which permits the award of attorneys' fees to prevailing parties.

The court does not state that a private right of action existed prior to the addition of Section 505 in 1978, but noted that "any uncertainty which may have existed was eliminated by the enactment of Section 505.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints	Medley v. Ginsburg	Southern District Court W.VA 6/10/80	

SYNOPSIS

A private right of action exists under Section 504 and administrative remedies need not be exhausted prior to instituting such action

A class action suit was brought on behalf of all mentally retarded residents of West Virginia who are under the age of 23 and are unable to live in their homes or home communities due to the lack of resources to provide for their special needs. A federal District Court found a private right of action under Section 504, the Community Mental Health Centers Act, the Developmental Disabilities Act, and the Education for All Handicapped Children Act, and ruled that the plaintiffs need not exhaust administrative remedies under any of the four statutes prior to seeking judicial relief.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints	Davis v. United Airlines, Inc.	Eastern District Court NY 1980	25 FEP Cases 565

SYNOPSIS

Private right of action exists under Section 503 and plaintiff need not exhaust administrative remedies

Plaintiff was placed on "permanent sick leave" and relieved of his duties as a ramp service worker, allegedly because of his epileptic condition. United Airlines moved for a judgment on the pleadings on the grounds that (1) no private right of action is created by Section 503, and (2) the plaintiff failed to exhaust his administrative remedies. The court found in favor of implication and dismissed the defendant's second contention that the plaintiff had failed to exhaust his administrative remedies because such remedies would not permit any personal remedy to the plaintiff or permit his participation.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints	Kling v. County of Los Angeles	Ninth Circuit Court 1980	633 F. 2d 876

SYNOPSIS

Court finds private right of action under Section 504 and that a private complaint need not exhaust administrative remedies prior to initiating judicial action

The plaintiff, accepted to the nursing program at Los Angeles County School of Nursing, and later denied admission because she suffered from Crohn's Disease, brought suit alleging the school's refusal to admit her violated Section 504. The court found the plaintiff to be a handicapped individual within the meaning of the Rehabilitation Act and has a private right of action under Section 504. In determining that administrative remedies are inadequate for private plaintiffs and that exhaustion of administrative remedies is not required, the court found that the plaintiff was entitled to a preliminary injunction to enable her to enroll at the school during the pendency of this suit.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints	Langman v. Western Electric Co.	Southern District Court NY 1980	488 Fed. Supp. 680

SYNOPSIS

Section 503 does not create a private right of action for handicapped individuals

The plaintiff was involuntarily retired after being reevaluated and transferred, with a demotion, as part of the company's program to reduce the number of its employees in New York. Plaintiff alleged that he had been discriminated against as a result of his age, in violation of the Age Discrimination in Employment Act and on the basis of handicap, in violation of Section 503. The court dismissed the Section 503 suit on the ground that the court lacked "jurisdiction because Congress did not dreate a private right of action under 29 U.S.C. Section 793(b)" and consequently, the administrative remedies outlined in Section 793(b) "should be the exclusive method by which aggrieved individuals may proceed."

The court was also unpursuaded by arguments expressed in recent district court opinions and looked instead to the wording of the statute refusing to extend a private right in this case.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints	Moon v. Atchison, Topeka and Santa Fe Railway Company	District Court KS 1980	22 FEP Cases 1252

Section 503 does not afford a private right of action

SYNOPSIS

The plaintiff alleged that he was denied a job because of his handicap, violating Section 503 and Kansas state discrimination laws. The court briefly cited the recent opinions dealing with this issue and concluded with the majority that no private right of action is implied under Section 503.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints	Cain v. Archdiocese of Kansas City	District Court KS 1981	508 Fed. Supp

Handicapped person has private right of action under Section 504 and need not exhaust administrative remedies, but such person must be intended beneficiary of federal financial aid

SYNOPSIS

The plaintiff brought suit under Section 504 alleging that termination of a teaching contract based solely on her handicap was an unlawful discharge. The defendants moved to dismiss the suit for failure to state a claim on which relief can be granted. The court determined that Section 504 does create an implied private right of action and ruled it was unnecessary for the plaintiff to have exhausted administrative remedies prior to instituting this action. The court agreed with the view which requires a private plaintiff to be a primary or intended beneficiary of the federal aid to be covered under Section 504 in employment discrimination cases. The court could not conclude whether the school received federal funds for the purpose of employment, and overruled the defendant's motion to dismiss the case.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Complaints Employment	Meyerson v. State of Arizona	District Court AZ 1981	507 Fed. Supp. 859

SYNOPSIS

Section 503 does not create a private right of action

Section 504 only applies to those federally funded programs or activities of an employer where the primary object of such assistance is to provide employment

The plaintiff alleged he was the victim of discrimination because of his handicap. The defendants moved for summary judgment because there is no private right of action under Section 503, and because the plaintiff is not the beneficiary of a program or activity receiving federal funds as required by Section 504. The court agreed with the three-circuit courts which have determined there is no implied private cause of action created by Section 503. The court also rejected the plaintiff's argument that Section 505 of the Act, enacted in 1978 to provide attorneys' fees for actions brought under the Act, is evidence of Congressional intent in favor of a private right of action in Section 503. The court refused to grant summary judgment under Section 504 because the record was too incomplete to make a determination.

140

133

DEFINITION OF HANDICAP

14i

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Definition of Handicap Employment	Doss v. General Motors, Corporation	Central District Court IL 1979	478 Fed. Supp. 139

SYNOPSIS

Section 503 does not grant a private right of action. Illinois Equal Opportunity for the Handicapped Act's definition of "handicap" includes hearing disability

The plaintiff, who suffered from a total loss of hearing in his right ear and a major hearing impairment in his left ear, claimed he was denied employment as a foundry worker three times because of his physical disability. The court dismissed the plaintiff's Section 503 claim which alleged employment discrimination, and held that the plaintiff's sole remedy was limited to administrative proceedings in the Department of Labor. The claim alleging discrimination in violation of the Illinois Equal Opportunity for the Handicapped Act survived the motion to dismiss.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Definition of Handicap	GASP v. Mecklenberg County	State Court NC 1979	256 S.E. 2d 477

SYNOPSIS

Those who suffer minor harm from tobacco are not "handicapped persons" within the meaning of Section 504

A group asserting nonsmokers' rights brought suit seeking an injunction to compel the defendant to ban smoking in public buildings. The plaintiffs claimed to be a class of handicapped persons. The court ruled that the plaintiffs did not constitute a class of handicapped persons and rejected other claims on the ground that the Constitution does not afford any enforceable right to a healthy environment.

143

142

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Definition of Handicap	Upshur v. Love	Northern District Court CA 1979	442 Fed. Supp. 322

SYNOPSIS

Where blind applicant is unqualified for administrative position without consideration of his handicap, he is not "otherwise qualified" within the meaning of Section 504

A blind teacher sued the Oakland (California) Unified School District and school officials charging that because of his handicap, he was denied placement on a list of those eligible for an administrative position in the school district. The court held that there was no violation of the Rehabilitation Act in this case, because the defendant's administrative committee had found the plaintiff unqualified for an administrative position without consideration of the problems presented by his blindness. The plaintiff was not required to exhaust his administrative remedies with Hew because such remedies did not exist when he filed suit. The court refused to treat handicapped persons as a "suspect class" requiring a strict scrutiny standard of judicial review, therefore, the plaintiff's other claims, based on due process and equal protection arguments, also failed.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Definition of Handicap Employment	Simpson v. Reynolds Metal Company, Inc.	Seventh Circuit Court 1980	23 FEP Cases 868

SYNOPSIS

Alcoholic has standing to sue under Section 504 as "handicapped individual". To be successful under 504, plaintiff must be intended beneficiary of federal financial assistance. No private right of action exists for violations of Section 503.

The plaintiff brought suit alleging his discharge from employment was based solely on his chronic alcoholism in violation of Sections 503 and 504. In affirming the District Court's dismissal of the action in favor of Reynolds, the court reaffirmed its own opinion that a private right of action is mandated.

The court does conclude in a footnote that Simpson qualifies as a "handicapped individual" as a result of his alcoholism, and that the defendant did not show that Simpson's alcoholism prevented him from doing his job successfully. However, the court determined that Simpson has no standing to sue under Section 504 since he has never sought to participate in, nor could he have participated in Reynolds' apprenticeship program because he is not a veteran. Further, Simpson did not demonstrate that he was subjected to discrimination under any other program receiving federal financial assistance.

DISCRIMINATION

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Discrimination: Participation in Programs	Neeld v. American Hockey League	Western District Court NY 10/25/77	439 Fed Supp. 459

SYNOPSIS

Hockey league enjoined from applying bylaw that prohibits participation by players with limited vision as probable violation of New York Human Rights Law

The plaintiff sought an injunction against the application for Article 13(e) of the bylaws of the American Hockey League. The court granted the injunction on the grounds that (1) the plaintiff's allegations provide a showing of irreparable harm to his athletic career; and (2) the plaintiff has shown the probability of success based on his claim under the Civil Rights Act.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Discrimination	Massachusetts Coalition of Citizens with Disabilities v. Civil Defense Agency and Office of Emergency Preparedness	First Circuit Court MA 1981	649 F. 2d 71

SYNOPSIS

Certain deficiencies in evacuation plan do not necessarily preclude handicapped from enjoying benefits of an evacuation plan so as to violate Section 504

The plaintiff, in a class action suit, sought a preliminary injunction to require state officials to modify evacuation plans in the event of a meltdown or other accident at a nuclear plant. The trial judge denied all injunctive relief on the grounds that the plaintiff failed to show either a reasonable prospect of immediate irreparable injury or a reasonable prospect of success on the merits. The Appeals Court upheld the decision of the trial judge and refused to grant the injunctive relief. The court determined that the trial judge had examined all of the traditional factors for granting a preliminary injunction, and that he was correct in finding that there was no immediate threat of harm to the plaintiff's class beyond the specter of a possible nuclear accident.

EDUCATION

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education: Integrated Setting	Hairston v. Drosick	Southern District Court W. VA 1/14/76	423 Fed. Supp. 180

SYNOPSIS

Minimally handicapped children are entitled to regular classroom instruction under Section 504 of the Rehabilitation Act

Suit contended the school's decision not to admit a child with a physical condition known as spina bfida into a regulat classroom unless her mother also attended. The plaintiffs alleged violations of Section 504 and the Fourteenth Amendment to the U.S. Constitution. The court held that a child who is minimally handicapped cannot be excluded from a regular public classroom situation without a bona fide educational reason. The court held there is a private right of action under Section 504, and ruled that the school system violated the Fourteenth Amendment's guarantee to due process by not complying with state regulations requiring written notice and hearing prior to excluding the child from the classroom.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education: Procedural Safeguards Discrimination: Participation in Programs	Sites v. McKenzie	Northern District Court W. VA 11/12/76	423 Fed. Supp. 1190

SYNOPSIS

Excluding a mentally-impaired prisoner from a prison's vocational rehabilitation programs is a violation of Section 504 of the Rehabilitation Act

A convicted felon with a history of mental impairment brought suit against the warden of a West Virginia penitentiary and other prison officials. The plaintiff alleged violations of Section 504. The court held that the plaintiff could not be excluded from participation in the prison's vocational rehabilitation program.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education: Participation in School Sponsored Activities	Kampmeir v. Nyquist	Second Circuit Court 4/15/77	553 F. 2d 296

SYNOPSIS

Handicapped students must show that the defendant school did not have substantial justification for excluding vision-impaired students from contact sports and, therefore, could not obtain injunctive relief under Section 504 of the Rehabilitation Act

The court affirmed a lower court order denying injunctive relief to two junior high school students, each with vision in only one eye, in their quest to participate in contact sports. While recognizing the probability that the plaintiffs had standing to sue under Section 504, the court construed Section 504 to mean that the exclusion of handicapped children from school activity is "not improper if there exists a substantial justification for the school's policy."

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education: Free Appropriate Education	Campbell v. Kruse	Supreme Court 10/3/77	No. 76-1704

SYNOPSIS

Supreme Court remands lower court holding that U.S. Constitution is violated when state requires contribution for handicapped children to receive appropriate special education

Plaintiffs alleged that a state statute requiring a financial contribution by the parents of handicapped children deemed eligible for private tuition assistance because appropriate special edication is not available in public schools, was in violation of the U.S. Constitution and Section 504 of the Rehabilitation Act. The lower court held that the state violated the Fourteenth Amendment. It also held that the practice of social welfare departments' accepting legal custody of handicapped children and placing them in foster care primarily for the purpose of receiving funds so that the children could attend private facilities, was violative of the right to family integrity guaranteed by the Ninth and Fourteenth Amendments. The Supreme Court ordered the three-judge lower court to decide the case on the of Section 504 of under the constitutional analysis of Maher v. Roe, U.S. (No. 75-1440, 6/20/77), and not on the constitutional grounds that the lower court had used.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education: Auxiliary Aids	Barnes v. Converse College	District Court SC 1977	436 Fed. Supp. 635

SYNOPSIS

Section 504 obligates private college receiving federal assistance to provide auxiliary aids to handicapped students

The plaintiff was granted a preliminary injunction enjoining Converse College from refusing to provide funds to her for the services of an interpreter, based on the Rehabilitation Act, which the court found enforceable by a private right of action. Subsequently, the court dissolved the injunction, finding that the plaintiff did not exhaust administrative remedies.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education: Equal Opportunity	Halderman v. Pennhurst State School and Hospital	Eastern District Court PA 1977	446 Fed. Supp. 1295

SYNOPSIS

Section 504 amounts to coficication of equal protection rights for handicapped

The court held that due process requires that every resident of an institution receive at least minimally adequate care and treatment, and that equal protection rights accorded retarded persons require they receive at least as much education and training as is being afforded by the state to others. The court ruled that Section 504 conferred a private right of action on the plaintiffs and that it imposed affirmative obligations on the part of state and local government officials.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education Complaints	Sherer v. Waier	Western District Court MO 1977	457 Fed. Supp. 1039

SYNOPSIS

Implication of private right of action does not obviate need for exhaustion of administrative remedies

Action initiated by the parents of an eight-year-old alleging school officials refused to provide catheterization services, requiring mother to quit her job and travel to school each day to provide the requisite catheterization. The complaint was filed without the plaintiffs first exhausting their administrative remedies. The court observed that education is not among the rights afforded protection under the U.S. Constitution and thus, school districts do not have an affirmative duty to provide "special services for a special class of people." Claims were dismissed.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education: Procedural Safeguards	Donnie R. v. Wood	District Court SC August 1977	No. 77-1360

SYNOPSIS

Section 504 mandates educational services to handicapped students by public school to the greatest extent possible

The plaintiff, without written notice or a hearing, was expelled for disruptive behavior at school. The parties entered a consent decree for an immediate educational evaluation and provision for appropriate educational services within the public school setting, after the plaintiff had not participated in any educational program for four months and only three hours per week of home instruction.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education: Post Secondary: Auxiliary Aids Complaints: Administrative Remedy	Crawford v. University of North Carolina	Middle District NC 11/1/77	440 Fed. Supp. 1047

SYNOPSIS

Injunction directing university to pay for interpreter for deaf student is warranted pending administrative resolution of student's complaint by Department of Health, Education and Welfare

The plaintiff sought an injunction compelling the university to provide him with an interpreter at university expense. The courts required the plaintiff to initiate a complaint with the Department of Health, Education, and Welfare, concluding that the matter should be resolved administratively.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education: Location, Identification, Notification	Frederick L. v. Thomas	Third Circuit Court PA 12/17/77	557 F. 2d 373

SYNOPSIS

Philadelphia School District required to identify learning-disabled school children and to provide them with an appropriate education

The plaintiff sued the School District of Philadelphia on the ground that it did not provide learning-disabled students with a minimally appropriate education. The trial court directed the school district to identify all learning-disabled students, and this order was affirmed on appeal.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education: Change in Placement	Stuart v. Nappi	District Court CT 1/4/78	443 Fed. Supp. 1235

SYNOPSIS

Education of the Handicapped Act gives handicapped students right to appropriate public education and enforceable in federal court

The court issued a preliminary injunction prohibiting a superintendent of schools and a board of education from holding a hearing to expel, from high school, a student with learning disabilities and emotional difficulties, and ordered them to conduct an immediate review of the student's special education program.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education - Post Secondary: Temporary Disability	Grimard v. Carlston	First Circuit Court 1/13/78	567 F. 2d 1171

SYNOPSIS

Temporary physical incapacity is not a handicap within the meaning of Section 504 of the Rehabilitation Act

Plaintiff enrolled in a four-semester nursing program was judged not physically able to discharge his responsibilities without endangering patient safety and was required to repeat the semester. Plaintiff claimed denial of due process.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education: Free Appropriate	Lopez v. Salida School District	District Court CO 1978	C.A. No C-73078

SYNOPSIS

Section 504 mandates individualized instruction and counseling for handicapped students

The plaintiff was expelled from high school in 1974 for disruptive behavior and denied education for three years. A consent decree was entered on January 20, 1978. Pursuant to the decree, the school district agreed to provide compensatory education.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education - Post Secondary: Aids of Personal Nature	Southeastern Community College v. Davis	Fourth Circuit Court 3/28/78	574 F. 2d 1158

SYNOPSIS

Colleges do not have to make "major adjustments" to programs for handicapped applicants

Colleges may consider a legitimate physical requirement during the process of admission to clinical programs

Section 504 does not require affirmative action

A licensed practical nurse, who suffers from a serious hearing disability, sought admission to the associate degree nursing program. The District Court judge dismissed the lawsuit, holding that Davis was not an "otherwise qualified handicapped individual" entitled to protection under Section 504. The U.S. Court of Appeals for the Fourth Circuit reversed the District Court's decision. The Supreme Court reversed the Circuit Court's decision and held that "an otherwise qualified person (under Section 504) is one who is able to meet all of a program's requirements in spite of his/her handicap. The Supreme Court rejected the need for affirmative action under Section 504. The court concluded that Southeastern had not violated Section 504, and remanded the case to the lower court.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education: Procedural Safeguards, Free Appropriate Education	Lora v. The Board of Education of the City of New York	Eastern District Court NY 6/2/78	456 Fed. Supp. 1211

SYNOPSIS

Policies and procedures of New York City's "special day schools" for emptionally handicapped deny due process and equal protection rights to students and violate Education of All Handicapped Children Act, Rehabilitation Act of 1973, Civil Rights Act, and state law

The plaintiffs, who suffer from emotional problems which manifest themselves in aggressive social behavior, have sued the City of New York on behalf of all minority students who have been assigned to "special day schools" charging that the program provided for them is inadequate. A federal district judge found that the special day-school programs did not satisfy statutory requirements. He concluded that the evidence did not support the plaintiffs' request to close all special day-schools, but rather that certain reforms should be mandated. He also ordered that the parties meet with one another and with the court to frame new placement practices.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education: Preplacement Procedural Safeguards	Howard S. v. Friendswood Independent School District	Southern District Court TX 6/23/78	454 Fed. Supp. 634

SYNOPSIS

Dismissal of emotionally-handicapped student from school program without hearing violated the U.S. Constitution and Rehabilitation Act of 1973

A high school student diagnosed as having minimal brain damage, a learning disability and emptional problems, claimed that the school district failed to meet its responsibility to provide him with a free, appropriate public education. His behavior problems were classified as disciplinary problems unrelated to his handicap. After hospitalization for a suicide attempt, enrollment by his parents in a private school, the district officially "dismissed" him from its program. The court held that the defendant school district had evaded its responsibility, that the dismissal of the plaintiff without notice to his parents and without a hearing, violated the due process clause of the U.S. Constitution. The court required the school district to make an immediate evaluation of the student to determine his special educational needs and to develop a program for him which meets those needs. The court further required the school district to set up an impartial due-process hearing system that meets due process requirements to handle any similar complaints in the future.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	Matty T. v. Holladay	Northern District Court MS July 1978	No. 75-31-S

SYNOPSIS

Education for All Handicapped Children's Act (P.L. 94-142) may be used to require implementation of a statewide plan of compliance

Case against officials of the Mississippi Department of Education alleged failure to adopt sufficient policies and procedures to ensure the plaintiff's procedural safeguards. The court ordered the state officials to develop a plan in compliance with the Act. The court also held that the children have a substantive right to appropriate education under Section 504.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	North Carolina Association for Retarded Citizens v. State of North Carolina Board of Public Education	Eastern District Court NC July 1978	C.A. No. 3050

SYNOPSIS

Section 504 and Education for Handicapped Children's Act (P.L. 94-142) require provision by state of free appropriate education to the handicapped

Residents of four mental retardation centers brought class action suit alleging denial of access to free publiv education. The state agreed to locate all mentally retarded children in the state in need of free appropriate public education through consent agreement arrived at in July 1978. The plaintiff association is to establish a citizens' advocacy program to train individuals as resource people to assist in the provision of free, appropriate education.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education - Post Secondary: Tenure and Title Complaints: Private Right of Action	Whitaker v. Board of Higher Education of the City of New York	Eastern District Court NY 10/17/78	No 77 C 2258

SYNOPSIS

Professor who claims he was denied tenure and was prohibited from using a title because of alcoholism has alleged a due process violation

Section 504 of the Rehabilitation Act confers a private right of action

Former professor, an admitted alcoholic, sued claiming violation of the due process clause of Section 504. He claimed that the college had offered him a title on a one-year basis and had agreed to convert his position into a tenured appointment, but that he had been denied tenure and prohibited from using his title, because the college had relied on untrue allegations to his competency. The court ruled that the professor's allegations would, if proven, constitute a violation of due process of law, that a private right of action does exist under Section 504, and that a plaintiff should not be required to exhaust administrative remedies.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	Guempell v. New Jersey	Superior Court Law Division NJ 1978	387 A. 2d. 399, 159 NJ Supp. 166

SYNOPSIS

No private right of action exists under Section 504 and the Education of All Handicapped Children Act

New Jersey requirement that parents of severely retarded children pay full costs of education and care in residential state schools for the retarded violates the equal protection clause where the state provides other retarded children with free education and care

The father of a seventeen-year-old severely retarded girl brought suit against the state and state officials, alleging that the state's requiring him to pay the cost of the child's care violated state and federal law. The court held that the state's method of charging costs to the plaintiff violated the Equal Protection clauses of the state and federal constitutions, in that the plaintiff was required to pay for educational services which were granted free of charge to less severely retarded children in other programs. The court allowed the plaintiff a deduction against his per capita costs equal to the average per capita sum being spent for mentally retarded children in the day care center program. The defendants did not violate any federal statutes, the court held. Because the residential placement is not incidental to the child's education, the court said, the state is not precluded from recovering costs of custody and care from the plaintiff. The court held neither Section 504 nor P.L. 94-142 provides for a private monetary remedy--only the loss of federal funds.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	S-1 v. Turlington	Southern District Court FL 6/15/79	635 F. 2d 342

SYNOPSIS

Expulsion of a handicapped student must be in accordance with determinations made by experts

The plaintiffs sought a preliminary injunction compelling state and local officials to provide them with the educational services and procedural rights to which they allegedly entitled. At issue was whether several handicapped students lost their right to a free, appropriate education through misconduct. The court held that expulsion is a change in placement within the meaning of the Education for All Handicapped Children Act and that a determination as to the causal relationship between a student's handicap and his misconduct must be made by "a specialized. knowledgeable group of people." Two other plaintiffs, while not under expulsion, contended they had not been properly evaluated and placed. The court ruled these students are entitled to due process hearings.

166

167

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	Sherry v. New York State Education Department, et al	Western District Court NY 11/5/79	479 Fed. Supp. 1328

SYNOPSIS

Section 504 requires State School for the Blind to provide supervisory staff as part of self-abusive student's appropriate education

The plaintiff's daughter is a blind and deaf fourteen-year-old with brain damage and an emotional disturbance which causes her to self-abusive. As a result of self-inflicted injuries she was removed from school and hospitalized. The school superintendent informed the child's mother that the school lacked the necessary staff to supervise the child so that her return would not be possible until her condition improved or until more staff was hired. When the plaintiff's daughter returned to school, she was immediately suspended. The plaintiff then filed suit for declaratory and injunctive relief under the Education for All Handicapped Children Act and the Rehabilitation Act. The court granted summary judgment against the defendants. The court held the defendants, in failing to provide the plaintiff with a due process hearing and other procedural safeguards, had violated the Education for all Handicapped Children Act. The court ordered the defendants to establish procedures which comport with Section 1415 of the Act. The plaintiff's requested relief for a declaratory judgment that defendants violated Section 504 of the Rehabilitation Act was also granted.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education Complaints	Doe v. Kroger	Northern District Court IN 12/3/79	480 Fed. Supp. 225

SYNOPSIS

Education of All Handicapped Children Act prohibits the expulsion of handicapped students where the cause of their disruptive behavior is the handicap; rather, the student must be transferred to a more appropriate environment

A mildly, mentally handicapped student was suspended and, after hearings, expelled from an Indiana public school for disciplinary reasons. After negotiations between student and school it was agreed that the handicapped student would be placed in an interim educational program pending further proceedings. The plaintiff moved for class certification and partial summary judgment. The defendants moved to dismiss the case or to grant a stay pending exhaustion of administrative remedies. The court denied class certification and said exhaustion of administrative remedies was not required here because the available local and state remedies were not designed for this claim, in that a challenge to the procedure by which the plaintiff was expelled was not provided for. On the statutory issues, the court held that "a school which accepts Education of All Handicapped Children Act funds

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education Complaints	Doe v. Kroger	Northern District Court IN 12/3/79	480 Fed. Supp. 225

SYNOPSIS (continued)

is prohibited from expelling students whose handicaps cause them to be disruptive and that before a disruptive handicapped student may be expelled, school officials must determine that the handicap is not the cause for the student's disruptive behavior.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	New York State Association for Retarded Children, Incl, et al v. Carey Coughlin v. Board of Education of the City of New York	Second Circuit Court NY 12/10/79	612 F. 2d 644

SYNOPSIS

City Board of Education's plan to isolate handicapped children who are carriers of hepatitus violates Section 504 where the health danger posed by the carrier children is small, and where the possible detrimental effects to the children is substantial

The Board of Education acted to exclude approximately forty mentally handicapped children from public schools because they were known carriers of serum hepatitus. A District Court ruled that such exclusion violated the Rehabilitation Act, the Fourteenth Amendment and other laws. The Board then developed its own plan in which the children were to be placed in separate classes away from other public school children. The District Court struck the plan and the Court of Appeals affirmed the decision. The Board had not demonstrated substantial evidence to indicate the health risk of serum hepatitus was more detrimental than the isolation of the children.

170

171

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	Tatro v. State of Texas	Northern District Court TX 12/21/79	481 Fed. Supp. 1224

SYNOPSIS

Neither Section 504 nor the Education for All Handicapped Children Act requires school districts to perform regular catheterization procedure for a child

The plaintiffs sought to enroll their handicapped daughter who required frequent catheterization, in the early childhood development program of the defendant school district. Plaintiffs were told the district would not perform this procedure. Plaintiffs then filed suit alleging violation of the Education for All Handicapped Children Act, the Rehabilitation Act, and internal policy statements of the school district. The court held that the defendants violated neither of the federal statutes saying that catheterization is not a related educational service, and that refusal to perform the catheterization procedure did not violate the defendant's internal policy statement.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	Boxall v. Sequoia Union High School District	Northern District Court CA 1979	464 Fed. Supp. 1104

SYNOPSIS

Courts have authority to award damages in Rehabilitation Act and Education of All Handicapped Children Act cases

The plaintiffs alleged that the school district failed to provide a child with a free, public education appropriate to his needs by refusing to pay for a full-time private tutor for the child in his parents' home. The court held that it has the authority to award damages including compensation for the full-time tutor.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education Complaints	Harris v. Campbell	Eastern District Court VA 1979	472 Fed. Supp. 51

SYNOPSIS

Generally, prior resort to administrative remedies is a prerequisite to bringing suit to redress violation of Education of All Handicapped Children Act

The plaintiff alleged that defendants failed to provide him an appropriate program of education. The court dismissed the case without prejudice, holding that where school officials have not willfully withheld educational opportunities from a handicapped child, the plaintiff must first exhaust his administrative remedies.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education Complaints	Harris v. Campbell	Eastern District Court VA 1979	472 Fed. Supp. 51

SYNOPSIS (continued)

The court found that the local school officials had made extensive efforts to provide an education for the plaintiff.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education Definition of Handicap	Larry P. v. Riles	Northern District Court CA 1979	Fed. Supp. No. C-71-2270RFP

SYNOPSIS

California school system's use of unvalidated I.Q. tests in placing black students in special classes for the retarded is a violation of Section 504, the equal protection clause, and other statutes

Section 504 covers persons who are regarded as handicapped, as well as those who are actually handicapped

The plaintiffs alleged that the California State school system's placement process for educably mentally retarded (EMR) classes was unlawfully discriminatory. The court's extensive opinion found the defendants' placement process, as a whole, violated federal laws because it was not validated and because it resulted in a large overrepresentation of black school children in the EMR classes. The court relied in part on HEW regulations which require that tests and other evaluation materials be validated for the specific purpose for which they are used. The court ruled that a private action is implied in Section 504, as well as in Title VI and in the Education for All Handicapped Children Act. Exhaustion of administrative remedies was held not to be required where the plaintiff relies heavily on alternative statutory and constitutional claims, and such exhaustion would be a time-consuming exercise in futility; and since an HEW official had informed the court before trial that no administrative action against the defendant was in the offing, the court held that Section 504 covers both handicapped persons and those who are regarded as handicapped.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	Stemple v. Board of Education Prince George's County	District Court MD 1979	464 Fed. Supp. 258

SYNOPSIS

Claims against state education officials involving tuition reimbursement requests are prohibited by the Eleventh Amendment

This action sought reimbursement for tuition expended for special schooling at a private institution. The court ruled against the plaintiffs, holding in part that the reimbursement sought was for a period prior to the effective date of the Education for All Handicapped Children Act, and because the plaintiffs were ultimately seeking a recovery of money from the state.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	New Mexico Association for Retarded Citizens et al v. State of New Mexico et al	District Court NM 1/8/80	No. 75-633-M Civil

SYNOPSIS

State's failure to adequately fund local school district programs for the handicapped violates Section 504

In light of its discretionary nature, the Education for All Handicapped Children Act does not obligate a state to seek federal funds to implement educational goals for handicapped children

The plaintiffs sued on behalf of a class of all handicapped children in New Mexico who have been, or in the future may be, handicapped, and who do not receive a free appropriate education. Although eligible to obtain federal funds through the Education for All Handicapped Children Act, the state chose not to apply. The plaintiffs contended that this failure to apply violated the Act, and, in light of the state's decision to apply for other federal education funds, Section 504. The court dismissed the claim based on the Education for All Handicapped Children Act ruling that the law did not mandate participation in the federal program. The court decided in favor of the plaintiffs on their chief Section 504 claim that the defendants discriminated against the handicapped class by failing to provide a free, appropriate education. Even though the state did not directly operate the local educational programs, the court reasoned that the state's "failure to insure compliance by the local school districts...implicates it under Section 504 ..." The fact that the state obtained assurances from local school districts that they were in compliance with state laws and regulations was not sufficient.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	Kruelle v. New Castle County School District	Third Circuit Court 4/1/80	Nos. 80-1875, 1876, 2063, 2064

SYNOPSIS

Unlike Section 504 which does not require substantial accommodations to meet the needs of handicapped individuals, P.L. 94-142 requires a comprehensive range of services to meet needs regardless of financial or administrative burdens

The plaintiff, a profoundly retarded thirteen-year-old with cerebral palsy in a residential program, was placed in a day program when his parents moved to Delaware. The District Court directed the state to provide full-time residential placement. State authorities appealed. The Third Circuit Court of Appeals found the child's unique needs required residential placement.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	Adashunas v. Negley	Seventh Circuit Court 1980	626 F. 2d 600

SYNOPSIS

Certification of plaintiff class denied in suit brought under Rehabilitation Act

The parents of two children brought this class action suit against a defendant class composed of the superintendent and board members of every Indian public school corporation "that fails to identify all students with learning disabilities and/or fails to provide access to a minimally adequate education suited to the needs of all such students". The chief issue in the case concerned the propriety of the individual plaintiffs maintaining a class action against a defendant class. The court said where the named defendants could not adequately represent other local agencies who also were being sued, a defendant class of such agencies is inappropriate. It also stated that "the proposed class of plaintiffs is so highly diverse and so difficult to identify that it is not adequately defined or nearly ascertainable", and refused to maintain the plaintiff class. The court did nold that the lower court "correctly concluded that the Rehabilitation Act does provide the handicpped with affirmative rights, does create a private right of action, and does not require exhaustion of administrative remedies."

173

173

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education Complaints	Camenisch v. University of Texas	Fifth Circuit Court TX 1980	616 F. 2d 127

SYNOPSIS

Injunctive relief bypassing Section 504 administrative remedies upheld

The U.S. Court of Appeals upheld a decision of the District Court granting injunctive relief requiring the University to produce and compensate an interpreter for a deaf student without requiring that the student resort to administrative remedies. The Appeals Court further found that, as the plaintiff alleged, the doctrine of exhaustion of administrative remedies is inapplicable in this situation.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	Doe v. Marshall	Fifth Circuit Court 1980	622 F. 2d 118

SYNOPSIS

Determination of mootness does not preclude an award of attorneys' fees which is determined by whether plaintiff is a "prevailing party"

The plaintiff was transferred from one school to another for medical reasons and was precluded from continuing to play football. The District Court granted a temporary injunction allowing the student to continue to play football at his new school. During the appeal the student graduated and the case became moot. The court found the plaintiff has "prevailed" and was entitled to reasonable compensation for attorneys' fees.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	Parents in Action on Special Education (PASE) v. Hannon	Northern District Court IL 1980	506 Fed. Supp. 831

SYNOPSIS

Standard intelligence test with a few racially biased items not sufficiently culturally biased to cause discriminatory placement of black children in educable mentally handicapped classes

The suit alleged that the standard intelligence tests used by the city to place students were culturally biased against black children, and that such tests violated the equal protection clause of the Fourteenth Amendment, Section 504, and various other federal statutes. The court found for the defendants based on the evidence presented. The court held that the standard intelligence tests ad-

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	Parents in Action on Special Education (PASE) v. Hannon	Northern District Court IL 1980	506 Fed. Supp. 831

SYNOPSIS (continued)

ministered were not shown to be culturally unfair to black children and did not result in discriminatory EMH placement. While acknowledging the few number of possible racially biased items on the tests, the court held "[t] there is no evidence in this record that such misassessments as do occur are the result of racial bias in test items or any other aspect of the assessment process currently in use".

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education: Athletic Participation	Poole v. South Plainfield Board of Education	District Court NJ 1980	490 Fed. Supp. 948

SYNOPSIS

Section 504 creates a private right of action for monetary damages as well as injunctive relief, where otherwise qualified handicapped student wishes to participate in sports with parental approval, school board has neither duty, nor right, under Section 504 to deny student's right to participate

Plaintiff, denied the right to participate in interscholastic wrestling competition solely on the basis of having only one kidney, filed suit under Section 504 seeking monetary damages. The court denied the school board's motion to dismiss, relying on a precedent that a private right of action does exist, and since Section 504 does not limit the remedies available to a successful plaintiff, the court said no distinction should be drawn between monetary and injunctive relief.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	Riley v. Ambach	Eastern District Court NY 1980	508 Fed. Supp. 1222

SYNOPSIS

Section 504 gives to implied private right of action, and exhaustion of administrative remedies is unnecessary

Eighteen handicapped children and their parents sought to enjoin enforcement of several actions with respect to the education of learning disabled children: (1) promulgation of a regulation requiring that a learning disabled child "exhibit discrepancy of 50% or more between expected achievement based on...intellectual ability and actual achievement" to qualify as a handicapped child for purposes of

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	Riley v. Ambach	Eastern District Court NY 1980	508 Fed. Supp. 1222

SYNOPSIS (continued)

Regulation requiring learning disabled child to exhibit discrepancy of 50% or more between expected achievement based on intellectual ability and actual achievement to qualify as "handicapped" conflicts with Section 504 and Education of All Handicapped Children Act

Removal of all residential schools treating learning disabled children from list of schools approved for treatment of handicapped children conflicts with Section 504 and Education for All Handicapped Children Act

Section 504 of the Rehabilitation Act of 1973 and the Education of All Handicapped Children Act, (2) removal from a list of "approved for treatment of handicapped children" all residential schools treating learning disabled children, and (3) issuance of an advisory memorandum indicating that any school district in which the number of students classified as learning disabled exceed 2 percent of the total population of students would be subjected to an annual site visit. The court first acknowledged that an implied private right of action exists under Section 504 and that an express private cause of action is contained in P.L. 94-142. The court in deciding it could hear the case, noted that the administrative process available was far too long and burdensome and would not have provided the plaintiffs an adequate forum to secure redress of their grievances. The court found defendants' use of the 50% rule to be in violation of Section 504 and P.L. 94-142 on the grounds that it resulted in reliance by local school districts of standardized test scores and grades which could be easily quantified. The court similarly found the commissioner's removal of all residential schools from the list of approved schools for learning disabled children to be a violation of the two federal statutes. The court refused, however to enjoin the implementation of the commissioner's advisory memorandum because the plaintiffs were unable to prove any injury to themselves as a result of the policy, nor did they establish that any standards had been misclassified as a result of its use.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	Selelyo v. Drury	Southern District OH 1980	508 Fed. Supp. 122

SYNOPSIS

Alleged failure to provide education most appropriate to child's need in least restrictive environment not rendered moot under Section 504 and Education for All Handicapped Children Act solely because of subsequent alteration of child's program

A mentally retarded child was evaluated by the staff of a center for handicapped children at the request of the superintendent of his local school district, and was subsequently placed in the school which serves all handicapped students within the county. The parents objected to this placement outside the local school district because it precluded the child from exposure to non-handicapped children. The defendant superintendent of schools contended that actions taken subsequent to filing the complaint rendered this action moot. The court concluded that the action was not moot, relying on a Supreme Court decision which held that voluntary cessation of illegal conduct does not render a case moot. The court noted that although a dual-school arrangement developed by the defendant might meet the requirements of the law, there was no guarantee that the dual placement would be continued throughout the child's public school education. The court determined that exhaustion of administrative remedies each school year, not just an expired school year, could not render a challenge moot because such a requirement might prevent an issue from ever being judicially reviewed.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	Board of Education of Northport-East Northport School District v. Ambach		436 F. 2d 546

SYNOPSIS

Section 504 requires that a handicapped student be provided an appropriate education but does not guarantee he will successfully achieve academic competency necessary for award of diploma

This case was filed on behalf of two handicapped students by the school board after the state Commissioner of Education determined that the students had not met all of the testing requirements for graduation and rendered their diplomas invalid. While there may be due process and other constitutional concerns raised by the manner in which the denial of diplomas occurred, the court determined that it was not a violation of Section 504 because the denial did not occur "solely by reason of handicap."

186

187

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	Georgia Association of Retarded Citizens v. McDaniel	Northern District Court GA 1981	511 Fed Supp. 1263

SYNOPSIS

Refusal of the board of education to consider needs of mentally retarded children for school terms in excess of 180 days violates Section 504

The plaintiffs challenged the policies of the state and local boards of education in Georgia which effectively precluded consideration of the needs of profoundly retarded children for educational plans in excess of the traditional 180-day school year. The court found that the educational needs of these children were considered in the context of the amount of schooling available to them, 180 days, rather than in light of what would be required to achieve reasonable educational objectives and that the state encourages a policy of limiting the school year to 180 days by refusal to pay for extended terms directly conflicting with the provisions of the Education for All Handicapped Children Act (EHA). The EHA places ultimate responsibility for compliance on the state agency which, according to the court, requires such agency to either make certain that local school boards are providing adequate, specialized educational services to handicapped children, or to provide such services itself. The court also held that Section 504 is applicable to the plaintiff's claims in this case and is not superseded by the newer EHA. The court reasoned that while the students are not being denied educational programs, special treatment or additional services may be necessary to fully enjoy the educational benefit of education. Although the court did not find the evidence in this case sufficient to justify issuance of a mandatory injunction requiring a greater than 180-day school year for the students involved, it did find plaintiffs were entitled to an injunction against the continued use of the 180-day policy and from defendants refusing to provide such extended schoolinf, if needed.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	Nelson v. Tuscarora Intermediate Unit No. II	PA 1981	426 A. 2d 1234

SYNOPSIS

Under Section 504, an educational facility may charge tuition to educate a mentally retarded child

A mentally retarded minor whose parents reside in New Jersey was transferred to Nelson House, a Pennsylvania institution which provides residential care for mentally retarded children. Since Nelson House does not provide educational services, the child was enrolled in the Tuscarora public school's program for trainable mentally retarded children for the 1973-74 school year. Tuscarora brought

183

189

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	Nelson v. Tuscarora Intermediate Unit No. II	PA 1981	426 A. 2d 1234

SYNOPSIS (continued)

this suit to recover tuition for educating the child during 1973-74 because his parents were not residents of the school district. The court found that Nelson House was responsible for the child's tuition since he was from out-of-state and since Nelson House was entrusted with his care and custody. The court agreed with the Department of Education's Section 504 regulation does not relieve "...a third party, from valid obligations to pay for services provided a handicapped child."

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Education	Pinkerton v. Moye	Western District Court VA 1981	509 Fed. Supp. 107

SYNOPSIS

School board's decision not to establish individual "self-contained" learning disabilities program is "substantially justified" under Section 504 where there are a limited number of students in the school system who need such a program and where their need can be met by a centrally located program

Action brought on behald of a twelve-year-old fifth grader suffering from learning disabilities, placed in a "self-contained" learning disabilities class located at an elementary school approximately 25 miles from the child's home and in another school district. The child's mother, contending the child's emotional attachment to the school within their district would preclude her from maximumizing her educational opportunities at another school. The board refused to establish a "self-contained" learning disabilities program in the child's district. The court found that the school board had made a reasonable accommodation and that such a place ment decision was reasonably based, and "substantially justified," to be lawful under Section 504.

EMPLOYMENT

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment: Selection Criteria	Gurmankin v. Costanzo	Third Circuit Court 4/25/77	556 F. 2d 184

SYNOPSIS

School district's refusal to allow blind teacher to take qualifying examination created "irrebuttable presumption" in violation of U.S. Constitution

The Court of Appeals ruled that the school district presumed the teacher's blindness made her incompetent to teach, and the district was in violation of the due process clause of the Fourteenth Amendment. Because the school district had finally permitted the plaintiff to take the examination in 1974, the court held that Section 504 of the Rehabilitation Act was inapplicable to pre-1974 legal harms.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment: Grievance Process	Ryan v. Federal Deposit Insurance Corporation	Circuit Court DC 10/25/77	565 F. 2d 762

SYNOPSIS

The Federal Deposit Insurance Corporation has a duty to provide programs and procedures to afford handicapped individuals equal opportunity in job assignments and promotion

An employee who has not tested whether an agency is in compliance by utilizing its grievance process has failed to state a cause of action

The plaintiff alleged she had been refused job assignments and denied promotion because of a physical disability. The Circuit Court affirmed the decision of the lower court directing the Federal Deposit Insurance Corporation to make available to the plaintiff all applicable administrative processes and permitting her to seek judicial review if action by the agency was unsatisfactory.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment: Decision Adversely Affecting Opportunities or Status	Wood v. Diamond State Telephone Co.	District Court DE 11/22/77	440 Fed. Supp. 1003

SYNOPSIS

Section 503 of the Rehabilitation Act does not create a private right of action Vietnam Era Veteran's Readjustment Act of 1972 does not obligate employer to give veterans preference or refrain from applying criterion that adversely affects veterans

The plaintiff was refused a job on the ground that "in ten or twenty years. . ." (he) might develop some condition related to his present disability." The court held that the Vietnam Era Veteran's Readjustment Act did not impose any duties on employers with respect to the decision to hire or not to hire, but merely required the employer to list available positions with the state employment service.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment: Primary Objective Complaints: Private Right of Action	Trageser v. Libbie Rehabilitation Center, Inc.	Fourth Circuit Court 12/18/78	F. 2d

SYNOPSIS

Section 504 of the Rehabilitation Act confers a private right of action in an employment discrimination case only where a primary objective of the federal assistance is to provide employment

A nurse, discharged by a private nursing home, claimed that the termination of employment occurred solely because of her handicap. The Fourth Circuit Court of Appeals held that the nurse does not have a private right of action under Section 504, using Title VI of the Civil Rights Act of 1964 as a parallel. The Appellate Court added that Title VII of the Civil Rights Act establishes the principal statutory remedies for employment discrimination on the basis of race and the like. The U.S. Supreme Court denied a Writ of Certiorari, refusing to review the case and left standing the ruling by the Court of Appeals for the Fourth Circuit.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment Complaints	Jessup v. Chicago & Eastern Illinois Railroad	Northern District ILL 1978	22 FEP Cases 1376

SYNOPSIS

Section 503 does not give rise to private right of action

Plaintiff alleged he was illegally terminated from employment and had a right to recover under Section 503. Defendant moved to dismiss the case on the grounds that Section 503 does not grant a private right of action to an individual plaintiff.
The court dismissed the action determining that the expressed enforcement mechanism is action by governmental authorities.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment Complaints	Anderson v. Erie Lackawanna Railway co.	District Court OH 1979	468 Fed. Supp. 394

SYNOPSIS

Section 503 does not imply a private right of action for its enforcement

A handicapped individual claimed that the defendants violated their obligations to engage in affirmative action to employ handicapped individuals. The court rejected the contention that the remedies under Section 503 extend to or include private rights of action, and held that Congress did not envision identical methods of enforcement under Sections 503 and 504. The court also reasoned that to imply a private cause of action under Section 503 would be to frustrate the informal conciliation efforts mandated in the regulations.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment	Neal v. U.S. Postal Service	District Court UT 1979	468 Fed. Supp 958

SYNOPSIS

Postal Service employees do not have right to initiate private action alleging handicap discrimination in employment

Employee brought suit alleging employment discrimination on the basis of a physical handicap. The court recognized a nonstatutory right to judicial review of Postal Service actions.
The court dismissed the complaint because the plaintiff failed to show that the Postal Service did not substantially comply with applicable procedures, acted arbitrarily and capriciously without substantial evidence, and that he had exhausted his administrative remedies.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment Complaints	Zorick v. Tynes	State Court FL 1979	372 So. 2d 133

SYNOPSIS

Section 504 does not apply unless a primary objective of federal assistance is to provide employment

The court hald Section 504 inapplicable in an action brought by a blind job applicant who was tendered, and then dinied, employment because of his disability. However, the court upheld a lower court order requiring trial employment of the plaintiff, basing its dicision on a Florida statute that incapacity due to a physical handicap be shown before an employer may refuse employment on the basis of the disability alone.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment	Chaplin and Epilepsy Foundation of America v. Consolidated Edison Company of NY, Inc., et al	Southern District Court NY 1/18/80	79 Cir.730 (MEL)

SYNOPSIS

Section 503 provides a private cause of action

Suit claimed that Consolidated Edison Company's hiring policies discriminated, in violation of Section 503 and 504 of the Rehabilitation Act, against qualified job applicants who suffer from epilepsy. The defendant moved to dismiss the case on the grounds that (1) Section 503 does not provide a private right of action, (2) Plaintiff Chaplin had not exhausted her administrative remedies, and (3) the Epilepsy Foundation lacks standing to sue. The district court denied the motion. The court found that the Supreme Court's analysis in Cort v. Ash is controlling in determining whether a private cause of action should be inferred from a statute which does not expressly provide such a right. The court did not require exhaustion of administrative remedies here because the Department of Labor regulations failed to provide for the participation of individuals in the administrative process. The defendant's contention that the Epilepsy Foundation lacked standing was also rejected. The court said Chaplin's alleged injury was sufficient to meet this requirement.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment	Brinkley v. Department of Public Safety	Northern District Court GA 1/25/80	Nos. C75-157R C78-115R

SYNOPSIS

Former employee may not sue employer under Section 504 where primary objective of federal financial assistnace is not to provide employment

The plaintiff filed several claims after her termination as a clerk-dispatcher, including one under Section 504. Section 504 as modified by Section 505 extends the Title VI remedies of the Civil Rights Act of 1964 to persons alleging violations of Section 504. Hoever, Title VI does not authorize actions with respect to employment practices of an employer "except where a primary objective of the Federal financial assistance is to provide employment," therefore, the court concluded that the polaintiff failed to state a claim upon which relief could be granted.

201

202

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment	Colemen v. Casey County Board of Education	Western District Court KY 3/26/80	

SYNOPSIS

State regulation held in conflict with Section 504

Plaintiff has private right of action under Section 504

The plaintiff, a school bus driver who lost one leg, underwent rehabilitative training, and several driving instructors evaluated him as highly competent. The school board, relying on a state regulation denied him reemployment because plaintiff did not have two natural legs. The court found this state regulation to be in conflict with the provisions of Section 504 that no individual shall be excluded from any program receiving federal financial assistance solely because of hanicap if he or she is otherwise qualified. The court held that the plaintiff had a private right to relief and prohibited the Board of Education from applying the state regulation.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment	Carmi v. Metropolitan St. Louis Sewer District	Eighth Circuit Court of Appeals 5-6-80	No. 79-1325

SYNOPSIS

Handicapped job applicant was not intended beneficiary of federal financial assistance and therefore, lacked standing to sue

The plaintiff, denied a job after a routine preemployment physical examination concluded he could not physically perform the job requirements, brought action alleging discrimination in employment under Section 504. The District Court held that the plaintiff failed to prove that he was an "otherwise qualified" handicapped person as required by Section 504 or that his constitutional rights had been violated. The rights, remedies and procedures of Title VI extend under Section 504 to aggrieved persons "where a primary objective of the federal financial assistance is to provide employment." This language led the court to conclude that Congress only intended to extend Title VI protections to beneficiaries of the federal aid. Since the District Court already found the defendant's assistance to be in the form of construction and engineering grants, the court concluded that the plaintiff was not an intended beneficiary of that assistance and lacked standing to bring action under Section 504. The Supreme Court has let stand the lower court ruling.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment: Definition of Handicap	E.E. Black, Ltd. v. Marshall	District Court HI 9/5/80	23 FEP 1253

SYNOPSIS

Court rules on definition of "qualified handicapped individual"

George Crosby, a carpenter's apprentice, suffered two back-related problems while on the job. Crosby was referred by his union to a construction job operated by E.E. Black, Ltd., a general contractor. The examining physician, at a preemployment physical, told Crosby he was a poor risk for heaby labor and therefore would not be hired. Crosby filed a complaint against Black with the Department of Labor (DOL). A DOL administrative law judge ruled that Crosby is not a qualified handicapped individual covered by the Rehabilitation Act. The DOL Assistant Secretary for Employment Standards Administration overruled the administrative law judge's ruling, holding that Crosby qualified under the Act because his perceived impairment prevented him from obtaining the particular job he wanted. Black and two employer organizations excepted to this ruling and filed this action for judicial review. The District Court rejected both the DOL Assistant Secretary's and the law judge's definitions of "qualified handicapped individual", but held that Crosby did qualify as such under the Act. The real focus must be on the individual job applicant, and not solely on the impairment, the court ruled. The court found that Crosby's impairment was a substantial handicap to his employment, and that when Black rejected Crosby as an apprentice carpenter, it rejected a qualified handicapped individual.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment Complaints	United States v. Cabrini Medical Center	Southern District Court NY 1980	23 FEP Cases 78

SYNOPSIS

Limitation that "primary objective" of federal financial assistance be to provide employment as contained in Section 604 of Title VI of the Civil Rights Act of 1964 is not applicable to Section 504 of the Rehabilitation Act

The Department of Health, Education and Welfare contended that Sections 504 and 505(a)(2) confer authority to receive access to records and personnel files in the investigation of complaints.
The court recognized that Section 504 was modeled after Title VI and that agency action to enforce this prohibition is limited to programs where a "primary objective" of the federal assistance is to provide employment. However, the court concluded that Section 504 was not applicable in this case. The court recognized that its holding is directly in conflict with recent appellate rulings but declined to follow their holdings.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment: Private Right of Action	Auffant v. Searle and Company	Not available	25 FEP Cases 1254

SYNOPSIS

Section 503 does not give rise to a private cause of action for enforcement

The plaintiff instituted this action under the provisions of Section 503 of the Rehabilitation Act of 1973 that he was harassed and intimidated by the officers of the defendant corporation into resigning his position as purchasing agent solely because he suffers from multiple sclerosis.
The defendant argued the plaintiff had no standing to enforce the provisions of Section 503 through a private cause of action. The court agreed that Congress did not intend to grant qualified handicapped persons a cause of action for relief from alleged disciminatory conduct of federal contractors and granted the defendant's motion to dismiss the complaint noting the statute "is easily distinguishable from other similar remediable (sic) legislation where the courts have found an implied private cause of action."

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment	Brown v. Sibley	Fifth Circuit Court 1981	650 F. 2d 760

SYNOPSIS

Employees have no private cause of action under Section 503
To bring suit under Section 504, plaintiff must show program or activity from which excluded, or in which involved, received federal financial assistance

Three visually impaired employees who were denied a supervisory position, brought a class action suit alleging employment discrimination in violation of Sections 503 and 504 of the Rehabilitation Act. The district Court held they had no private cause of action under Section 503 and ruled against them on the individual and class discrimination claims under Section 504.

207

208

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment: Primary Purpose of Funds	Cain v. Archdiocese of Kansas City	District Court KS 1981	508 Fed. Supp

SYNOPSIS

Handicapped person has private right of action under Section 504 and need not exhause administrative remedies, but such person must be intended beneficary of federal financial aid

In 1978 the plaintiff entered into a teaching contract with one of the elementary schools in Kansas City. Before the actual school session began, the contract was terminated by the defendant solely because of the plaintiff's medical condition. The plaintiff brought suit under Section 504. The court first determined that Section 504 does create an implied private right of action for a handicapped person to enforce the protection of the Rehabilitation Act, and ruled it was unnecessary for the plaintiff to have exhausted administrative remedies prior to instituting this action. The court also reviewed the 1978 amendments to the Rehabilitation Act which incorporate all the "remedies, procedures and rights", particularly Section 604, title VI of the Civil Rights Act which limits actions with respect to employment practices "except where a primary objective of the Federal financial assistance is to provide employment." The court agreed with the view which requires a private plaintiff to be a primary or intended beneficiany of the federal aid to be covered under section 504 in employment discrimination cases. The court could not conclude on the basis of the complaint whether the school received federal funds for the purpose of employment. Since it was conceivable that the plaintiff could meet this burden of proof the court overruled the defendant's motion to dismiss the case.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment: Employment Inquiries	Doe v. Syracuse School District	Northern District Court NY 1981	508 Fed. Supp. 333

SYNOPSIS

Section 504 forbids employment discrimination by recipients of federal financial assistance only where a primary purpose of such aid is to provide employment

Action was brought by the plaintiff alleging the defendant had asked impermissible preemployment questions and conducted a preemployment physical examination in violation of Section 504 . The plaintiff completed a vital statistics form acknowledging that he had suffered a nervous breakdown and was receiving disability payments. An examination by the school district's psychiatrist found the plaintiff to be physically and mentally qualified for the position of teaching assistant, but his employment application was rejected. This opinion is in response to a motion for reconsideration by the plaintiff. The court found that the defendant's preemployment inquiries violated the express provisions of

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment: Employment Inquiries	Doe v. Syracuse School District	Northern District Court KS 1981	508 Fed. Supp. 333

SYNOPSIS (continued)

45 C.F.R. §84.14, regulations promulgated by the Department of Health, Education and Welfare. Consequently, the court granted the plaintiff's motion for summary judgment on this issue but noted that such a finding alone did not require the school district to be found in violation of Section 504.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment: Primary Purpose of Funds	Hall v. Board of County Commissioners of Frederick County	District Court MD 1981	509 Fed. Supp. 841

SYNOPSIS

Plaintiff must show she is intended beneficiary of federal funds to provide employment for standing to sue under Section 504

Action was brought by a former handicapped employee terminated from her position She alleged that the actions that led to her discharge were conducted at variance with the county's personnel rules and were in violation of Title VII of the Civil Rights Act and Section 504 of the Rehabilitation Act. A motion by the defendants to dismiss the case was denied as to the Title VII claim, but was granted as to the Section 504 claim.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment	Marin v. New York State Department of Labor	Southern District NY 1981	512 Fed. Supp. 353

SYNOPSIS

Most appropriate state stutute of limitations should be applied to claims under Section 504 and failure to rehire an employee does not toll the limitations period

The plaintiff claims his employers discriminated against him because he is Puerto Rican and because he is blind and has an injured back. The court found that more than three years had elapsed between the plaintiff's termination from employment and the filing of this suit. While the court would not dismiss the complaint regarding the Civil Rights Act claim, it did find the Section 504 claim to be time-barred.

211

212

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment	Miller v. Abilene Christian University of Dallas	Northern District Court TX 1981	517 Fed. Supp. 437

To have standing to bring private cause of action under Section 504, plaintiff must allege employer received federal funds primarily to provide employment.

To recover under Section 504, plaintiff must be the beneficiary or participant in a program receiving federal financial aid, and alleged discrimination must be in connection with that program.

SYNOPSIS

Action brought by a former faculty member alleging that his termination constituted discrimination against a handicapped person. The defendant asked the court to dismiss the action arguing that the plaintiff failed to allege in his complaint that the university is a recipient of federal funding or that he is an intended beneficiary of any such funding. Based on the above; the plaintiff's failure to allege any relationship between his discharge, the alleged discrimination which resulted from that termination; and the federal financial assistance which was received by the employer, the court found that the plaintiff's claim failed.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment	Reynolds v. Ross	Northern District Court NY 1981	25 FEP Cases 462

SYNOPSIS

Section 503 does not create a private right of action, although a private right does exist under Section 504

Pursuant to an arbitrator's decision in disciplinary proveedings against him, the plaintiff signed an agreement providing that he would not communicate with officials in the department above the rank of his supervisor. Alleged breach of that agreement led to his termination in January 1977. Plaintiff alleged that he was forced to sign the agreement in violation of the First Amendment and other constitutional rights, and that the defendant, in violation of Sections 503 and 504 of the Rehabilitation Act, failed to make reasonable accommodation for his numerous handicaps during his employment. The court determined that the plaintiff had failed to state a claim upon which relief could be granted and refused to permit the plaintiff to amend his complaint concluding that "... it is unlikely Congress intended to grant a private right of action under Section 503." Because the plaintiff failed to allege he was involved in any program receiving federal financial assistance or failed to seek any relief, the court ordered the claim dismissed but indicated it would allow the plaintiff to amend his complaint.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment	Ross v. Allen	Southern District Court NY 1981	515 Fed. Supp. 972

SYNOPSIS

School psychologist who was fired for complaining to board of education about alleged violation of a student's Section 504 rights has standing to raise a claim under Section 504 because she is within "zone of interest" meant to be protected by Section 504

Student who was told to stay home because of behavorial problems was not provided a hearing or formally suspended. The plaintiff complained of violation of student's rights to the defendant school but no action was taken. She subsequently advised the student and student's mother of their rights and contacted the school board's Child Advocacy Project. School officials reversed their position on the student and fired the plaintiff for contacting an outside agency and for acting as an advocate for the child. The plaintiff appealed unsuccessfully.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment: Primary Purpose of Funds	Sabol v. Board of Education	District Court NY 1981	508 Fed. Supp. 333

SYNOPSIS

Section 504 forbids employment discrimination by recipients of federal financial assistance only where a primary purpose of such aid is to provide employment

Two successive employment contracts were entered into by the plaintiff, for the school years 1978-79 and 1979-80. The plaintiff, injured in an automobile accident during the first contract period and was absent from duties during May and June, 1979, notified the defendant of his desire to resume his duties at the beginning of the 1979-80 school year. The school board denied the plaintiff's request because of his temporary need for a wheelchair and crutches and, subsequent to a brief medical examination, discharged him.

Plaintiff brought suit under Section 504, as well as several constitutional and state claims. The court dismissed the Section 504 claims, agreeing with recent decisions that the coverage of Section 504 is limited to instances where a primary purpose of the federal financial assistance received by an employer is to provide employment.

In determining that the Board of Education receives no federal assistance with a primary purpose of providing employment, the court found that all federal and received is to benefit educational programs and students and deined the plaintiff a private cause of action.

The court also considered the plaintiff's claim that he may still maintain a cause of action under Section 504 because the discrimination against him also resulted in discrimination against the direct beneficiaries of the federal financial aid, namely the handicapped students, by depriving them of a role model. The court ruled that this individual discharge does not establish a pattern or practice of discrimination by the school board which would harm protected beneficiaries of Section 504. Thus, the plaintiff failed to prove he was entitled to relief under 504.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment	Simon v. St. Louis County	Eighth Circuit Court 1981	26 FEP Cases 1003

SYNOPSIS

Employee, terminated from employment after suffering paralyzing injury while on duty, is not entitled to a hearing under due process, but may be entitled to reinstatement under the Rehabilitation Act

The plaintiff, injured in the line of duty, was notified by letter, without a pretermination hearing, that his employment was terminated because he could no longer fulfill the duties of a police officer. The plaintiff filed suit alleging violation of the due process clause and the Rehabilitation Act. The District Court held that the defendant was not required to provide a due process hearing because

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment	Simon v. St. Louis County	Eighth Circuit Court 1981	26 FEP Cases 1003

SYNOPSIS (continued)

the department had already stated the reasons for its action in the termination letter, and the nature and extent of the plaintiff's injuries and incapacity were plain to both parties at that time. The court disposed of the plaintiff's Section 503 claim but held the plaintiff did have standing to sue under Section 504. On the merits of the Section 504 claim, the court decided that the defendant is not required to reinstate the plaintiff as a commissioned officer. On appeal to the Eighth Circuit, the plaintiff took issue with the District Court's findings. The court affirmed the trial court's decision with respect to the Section 503 claim and that the plaintiff has standing to sue under Section 504. The Appeals Court noted, however, there was substantial evidence in the record that the department's physical requirements were not, in fact, necessary or required of all officers, and remanded the case to the District Court for further consideration on this issue.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment	Wiggins v. United States Postal Service	Fifth Circuit Court 1981	653 F. 2d 219

SYNOPSIS

Federal district courts are proper tribunals to hear challenges to adverse orders of Merit Systems Review Board where discrimination on the basis of handicap forms the basis of the challenge

The plaintiff sought to appeal an adverse order entered by the Merit Systems Review Board under the statute governing judicial review of final decisions of the board.
According to the appropriate stature cases involving handicap discrimination are to be filed in accordance with Section 717(c) of the Civil Rights Act of 1964, allowing an aggrieved employee to file a civil action, which has some relationship to the challenged action or dismissal in any of the federal district courts. Because Wiggins' claim was based on handicap discrimination, the Court of Appeals here decided it did not have jurisdiction to hear the case. The court noted the need to receive additional evidence which can only be done by the district courts and further decided that the "mixed" nature of this case (discrimination and non-discrimination procedural claims) required that the District Court accept juris-

219

220

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Employment	Wiggins v. United States Postal Service	Fifth Circuit Court 1981	653 F. 2d 219

SYNOPSIS (continued)

diction over all of the claims. Even though the procedural claims could properly be heard by the Court of Appeals, the court held that the entire case should properly be heard in the District Court.
The court noted Wiggins would be unable to file a new complaint in the District Court because the statute of limitations had run out. To remedy this, the Appeals Court vacated the board's order and remanded the case to the board so a fresh order could be made.

221

222

PLACEMENT

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Placement: Institution vs Community Placement	Kentucky Association of Retarded Citizens v. Connecticut	Western District Court KY 1980	510 Fed. Supp. 1233

SYNOPSIS

Class action suit on behalf of former and present residents of residential treatment facility alleging that certain mentally retarded citizens housed there had been denied constitutional and statutory rights. The plaintiffs further sought to prevent the construction of a new facility, contending that building this new facility, as opposed to relocating the residents in community alternatives, violated rights to treatment in the least restrictive environment and to freedom from harm in violation of 504, Developmentally Disabled Assistance and Bill of Rights Act. Without the benefit of a later Supreme Court decision, which held that the DDA is only a state/federal funding statute and does not create substantive rights of individuals, this court agreed with the Third Circuit's opinion in Pennhurst, that Section 504 does not include a legislative mandate for deinstitutionalization. The court further disagreed with the majority in Pennhurst that DDA gives rise to a private right of handicapped individuals to treatment in community-based rather than institutional settings.

TRANSPORTATION

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Transportation: New Vehicles Technology Feasible Accommodations	Bartels v. Biernat	Eastern District WI 2/14/77	427 Fed Supp. 226

SYNOPSIS

Violations of Section 504 of the Rehabilitation Act and Section 16 of Urban Mass Transportation Act are remedied by permanent restraints on additional bus purchases until the court is satisfied that "special efforts" have been made

Mobility-handicapped persons brought suit against local and federal transportation officials alleging violations of Section 16(a) of the Urban Mass Transportation Act, Section 504 of the Rehabilitation Act, and the U.S. Constitution. The court deferred to the "special efforts" dictate of regulations promulgated under the UMTA (49 C.F.R. 613.204), as a point of reference in drafting a remedy. The court restrained defendants from acquiring, leasing or renting vehicles, in addition to those currently in operation, until such time as the defendants could demonstrate to the satisfaction of the court that the facilities and services that could be effectively utilized by mobility-handicapped individuals had been planned, designed, and were being made available to such individuals in a non-discriminatory manner.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Transportation: Compliance	Snowden v. Bermingham-Jefferson County Transit Authority	Fifth Circuit Court 4/21/77	407 Fed. Supp. 394

SYNOPSIS

Local transportation authority receiving money from Department of Transportation that provides the latest in equipment to aid the handicapped does not violate Section 16(a) of Urban Mass Transportation Act, Section 504 of the Rehabilitation Act or the U.S. Constitution

The plaintiff, confined to a wheel chair, sought to restrain the defendant local transit authority from acquiring any new buses or other mass transportation vehicles that were not accessible to the handicapped, and to restrain Department of Transportation from rendering any further financial assistance to the local authority. Having found that the local authority had installed in its buses special equipment to aid handicapped persons, and that the present technology offered no more than what the local authority had done, the court ruled that defendants had met the "special efforts" requirement of the Urban Mass Transportation Act.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Transportation: Alter Existing Facilities	Philadelphia Council of Neighborhood Organizations v. Coleman	Eastern District Court PA 9/12/77	437 Fed. Supp. 1341

SYNOPSIS

Urbann Mass Transportation Act does not require alteration of existing transportation facilities to provide accessibility to handicapped

Action was brought to prohibit the funding and construction of a tunnel that would connect with a new underground station, claiming that although the proposed tunnel station would meet the needs of the handicapped, it would connect with 196 existing stations that do not. The court held that the Urban Mass Transportation Act requires only that new facilities, not existing facilities, take the handicapped into account.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Transportation: Technologically Feasible Accommodations Complaints: Private Right of Action	Leary v. Crapsey	Second Circuit Court 12/13/77	556 F. 2d 803

SYNOPSIS

Mobility-handicapped persons have private cause of action under Section 504 of the Rehabilitation Act

Municipal transportation system obtaining federal funding must make efforts to serve the needs of the mobility-handicapped

Suit alleged that the defendants' failure to provide a bus transportation system accessible to the mobility handicapped violated the Urban Mass Transportation Act of 1964, Section 504 or the Rehabilitation Act, and the U.S. Constitution. The Court reversed a decision of the District Court finding that the District Court had failed to consider evidence of the efforts undertaken by the defendant to plan for the needs of the handicapped regarding what is technicologically feasible and remanded the case to the lower court for more detailed inquiry into these questions.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Transportation	Vanko v. Finley	Northern District Court OH 1977	440 Fed. Supp. 656

SYNOPSIS

Section 504 does not require regional transit authorityes to make all buses accessible to wheelchairs

A wheelchair-confined person brought an action against federal and regional officials for relief with respect to providing mobility-handicapped persons access to mass transit. The court held that the Urban Mass Transportation Act requires provision of mass transit that the handicapped and elderly can "effectively utilize". The court ordered further briefing on the questions of whether the defendants are required to provide services for the elderly and handicapped which are reasonably comparable to the services provided the general public and, if so, whether the defendants are in compliance with that requirement by providing a separate para-transit system.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Transportation: Time Period for Making Changes	Atlantis Community, Inc., v. Adams	District Court CO 6/30/81	453 Fed. Supp. 825

SYNOPSIS

Urban Mass Transportation Act and Rehabilitation Act do not define obligations of federal transportation officials--to permit court to give directions to them

Class action on behalf of all mobility-handicapped persons claiming that buses purchased with federal assistance which lack hydraulic lifts and wheelchair assistance devices violate the Urban Mass Transportation Act of 1964 and the Rehabilitation Act of 1973. The defendants concede responsibility to provide access but claim that the Secretary of Transportation has discretion to determine the timing and techniques to be used to achieve that goal. The court ruled that failure to provide the plaintiffs with immediate access to Regional Transportation District buses was not an infringement of their personal liberty to travel.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Transportation	Disabled in Action of Pennsylvania, Inc., v. Coleman	Eastern District Court PA 1978	48 Fed. Supp. 109

SYNOPSIS

Issuance of Department of Transportation "Transbus" regulations mooted challenge to local transportation funding practices

A class action was launched on behalf of all mobility disabled and elderly persons who are denied ready access to and effective use of federally financed mass transportation by reason of the physical and structural barriers in the design of public transit equipment. The Secretary of Transportation issued a decision and regulations requiring that local transit authorities, in using federal funds, purchase only low-floor, wide-door, ramped buses. The court declared the case mooted as the result of the issuance of the decisions and regulations.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Transportation	American Public Transit Assoc. et al v. Goldschmidt, et al	District Court DC 2/7/79	No. 79-1697

SYNOPSIS

Department of Transportation 504 regulations requiring recipients of federal funds to make transportation accessible to the handicapped do not exceed Department of Transportation authority

Department of Transportation's failure to include an environmental impact statement with the regulations is a violation of the National Environmental Policy Act; but such violation is not sufficient basis for enjoining implementation of the regulation

The plaintiffs, an association of public transit authorities and its members, brought suit against Department of Transportation requesting the court to declare Department of Transportation regulations invalid and to enjoin their implementation. The plaintiffs charged that Department of Transportation exceeded statutory authority granted by Section 504 when it implemented the regulations. The court conceded that the regulations might be invalid if based solely on Section 504, but held that the Urban Mass Transportation Act, the Federal Aid Highway Act, and other statutes independently provide the Secretary of Transportation with sufficient authority to issue the regulations. The court found that Department of Tramsportation sufficiently considered all alternatives. The court held that defendant Department of Transportation did violate the National Environmental Policy Act (NEPA) by failing to issue an Environmental Policy Statement (EIS) in conjunction with the regulations. The court found "the balance of equities in this case militates against a grant of injunctive relief"; and no irreparable injury to the plaintiffs in that they were not required to begin alterations in existing facilities for at least eighteen months or until their waiver requests were considered by Department of Transportation and, since Congress is presently considering proposals which could remedy the situation, the regulations were not enjoined.

TOPIC	PLAINTIFF/DEFENDANT	COURT	REFERENCE
Transportation	United Handicapped Federation v. Andre	Eighth Circuit Court MN 1980	622 F. 2d 342

Plaintiffs entitled to reasonable attorneys' fees under the Rehabilitation Act of 1973 where suit is dismissed pursuant to settlement because the lawsuit served as a catalyst to prompt the Commission to act

SYNOPSIS

United Handicapped Federation brought suit against the Metropolitan Transit Commission (MTC) and several others alleging a lack of transit services for the hand-handicapped in and around the metropolitan Minneapolis-St. Paul area. Metropolitan Transit Commission finally passed a resolution to provide transportation for handicapped persons by a specific date, and United Handicapped Federation agreed to settle the lawsuit by "Stipulation of Settlement". The court dismissed all claims against the defendants except the question of attorneys' fees and costs. The District Court subsequently denied United Handicapp Federation's motion for attorneys' fees on the grounds that it was not a prevailing party. Upon appeal to the Eighth Circuit Court, the court found United Handicapped Federation met both parts of the Nadeau test, and was entitled to sone "reasonable compensation for attorneys' fees from the MTC defendants in their official capacities only," but that the award of attorneys' fees applies to local defendants only.

SECTION II

APPENDICES

APPENDIX II-A

Following is a partial listing of some key federal public laws, regulations, and executive orders relating to accessibility rights of disabled persons.

- Rehabilitation Act of 1973 (PL 93-112), 29 USC 706 as amended (PL 93-516, 94-230, and PL 95-602) Sections 502-507.
- Department of Health, Education and Welfare government wide regulations Final 43 FR 2131, 1/13/78, Sections 85.1-85.8.
- Department of Health, Education and Welfare Agency regulations 42 FR 22676, 5/14/77, Sections 84.1-84.54.
  Effective 5/4/80 Department of Education was established. Department of Health, Education and Welfare became the Department of Health and Human Services.
- Executive Order 11914, 4/28/76
  Executive Order 12250 11/2/80
- Architectural Barriers Act of 1968 (PL 90-480) as amended through 1976.
- Title VI of the Civil Rights Act of 1964 (42 USC 2000 et seq.).
- Title IX of the Educational Amendments 1972 (20 USC 1981 et seq.).
- Education for All Handicapped Children's Act, 1975 (PL 94-142), 20 USC 1401.
- General Services Administration (GSA), Standards for Accommodating the Physically Handicapped 43 FR 16478, 4/19/78.
- Architectural and Transportation Barrier's Compliance Board (ATBCB) Practices and Procedures for Compliance Hearings 41 FR 55442, 12/20/76.
- Department of Labor, Office of Federal Contract Compliance Programs (OFCCP) Affirmative Action Obligations of Federal Contractors 41 FR 26386, 4/16/76.

GLOSSARY

ACTION A suit brought in court. A formal complaint within the jurisdiction of the law.

ADJUDICATE To settle in the exercise of judicial authority. To determine finally.

ADMINISTRATIVE REMEDY Non-judicial remedy provided by agency, board, commission or the like. In most instances, all administrative remedies must have been exhausted before a court will take jurisdiction of a case.

ADMINISTRATIVE REVIEW Generally refers to judicial review of administrative proceedings; may also embrace appellate review within the administrative agency itself.

ADVOCATE To speak in favor of or defend by argument. One who assists, defends or pleads for another.

AFFIRM To ratify, make firm, confirm, establish, reassert. To make a solemn and formal declaration that an affidavit is true.

AGGRIEVED Having suffered loss or injury.

AGGRIEVED PARTY One whose legal right is invaded by an act complained of, or whose pecuniary interest is directly affected by a decree or judgment. "Aggrieved" refers to a substantial grievance, a denial of some personal or property right, or the imposition upon a party of a burden or obligation.

ALLEGATION The assertion, claim, declaration or statement of a party to an action, made in a pleading, setting out what he expects to prove.

ALLEGE To state, recite, assert or charge.

BENEFICIARY One who benefits from act of another.

CERTIORARI (Writ of Certiorari) A writ of common law origin issued by a superior to an inferior court requiring the latter to produce a certified record of a particular case tried therein. The writ is issued in order that the court issuing the writ may inspect the proceedings and determine whether there have been any irregularities. To be informed of.

CONSENT DECREE Agreement by defendant to cease activities asserted as illegal by government. A decree entered in an equity suit on consent of both parties.

COURT

Appellate court A court having jurisdiction of appeal and review; a court to which causes are removable by appeal, certiorari, error or report. A reviewing court, and except in special cases where original jurisdiction is conferred, not a "trial court" or court of first instance.

Circuit court Courts whose jurisdiction extends over several counties or districts, and of which terms are held in the various counties or districts to which their jurisdiction extends.

Courts of Appeals Former name for federal intermediate appellate courts, changed in 1948 to present designation of U. S. Courts of Appeals.

District court Each state is comprised of one or more federal judicial districts, and in each district there is a district court. The U. S. district courts are the trial courts with

general federal jurisdiction. One to three judges may be required to decide and hear a case.

- District of Columbia court
- First Circuit: Districts of Maine, New Hampshire, Massachusetts, Rhode Island, and Puerto Rico.
- Second Circuit: Districts of Vermont, Connecticut, northern New York, southern New York, eastern New York, and western New York.
- Third Circuit: Districts of New Jersey, eastern Pennsylvania, middle Pennsylvania, western Pennsylvania, Delaware and Virgin Islands.
- Fourth Circuit: Districts of Maryland, northern West Virginia, southern West Virginia, eastern Virginia, western Virginia, eastern North Carolina, middle North Carolina, western North Carolina, and South Carolina.
- Fifth Circuit: Districts of northern Georgia, middle Georgia, southern Georgia, northern Florida, middle Florida, southern Florida, northern Alabama, middle Alabama, southern Alabama, northern Mississippi, southern Mississippi, eastern Louisiana, middle Louisiana, western Louisiana, northern Texas, southern Texas, eastern Texas, western Texas, and Canal Zone.
- Sixth Circuit: Districts of northern Ohio, southern Ohio, eastern Michigan, western Michigan, eastern Kentucky, western Kentucky, eastern Tennessee, middle Tennessee, and western Tennessee.
- Seventh Circuit: Districts of northern Indiana, southern Indiana, northern Illinois, eastern Illinois, southern Illinois, eastern Wisconsin and western Wisconsin.
- Eighth Circuit: Districts of Minnesota, northern Iowa, southern Iowa, eastern Missouri, western Missouri, eastern Arkansas, western Arkansas, Nebraska, North Dakota, and South Dakota.
- Ninth Circuit: Districts of northern California, eastern California, central California, southern California, Oregon, Nevada, Montana, eastern Washington, western Washington, Idaho, Arizona, Alaska, Hawaii, Territory of Guam, and Northern Mariana Islands.

- Tenth Circuit: Districts of Colorado, Wyoming, Utah, Kansas, eastern Oklahoma, western Oklahoma, northern Oklahoma, and New Mexico.

State Courts Those courts which constitute the state judicial system in contrast to federal courts. City and county courts may or may not be part of the state system of courts, depending on the jurisdiction.

Supreme Court, U.S. The U. S. Supreme Court comprises the Chief Justice of the United States. The highest appellate court or court of last resort.

DECLARATORY JUDGMENT Statutory remedy for the determination of a justifiable controversy where the plaintiff is in doubt as to his legal rights. A binding adjudication of the rights and status of litigants even though no consequential relief is awarded.

DEFENDANT The person defending or denying; the party against whom relief or recovery is sought in an action of suit or the accused in a criminal case.

DISMISS To send away, discharge; to discontinue or dispose of; to cause to be removed temporarily or permanently.

DISSOLVE To terminate; abrogate, cancel, annul, disintegrate. To release or unloose the binding force of anything.

DUE PROCESS CLAUSE Two aspects: procedures in which a person is guaranteed fair procedures, and substantive which protects a person's property from unfair governmental interference or taking.

ENJOIN To require; command; positively direct. To require a person, by writ of injunction, to perform or to abstain or desist from some act.

FAILURE TO STATE CAUSE OF ACTION (CLAIM) Failure of the plaintiff to allege enough facts in the complaint.

FOUND A person is said to be "found" within a state for purposes of service or process when actually present therein. But only if a person is in a place voluntarily and not by reason of plaintiff's fraud, artifice, or trick for purpose of obtaining service.

GRIEVANCE In labor law, a complaint filed by an employee regarding working conditions and for resolution of which there is procedural machinery provided in the union contract. An injury, injustice or wrong which gives ground for complaint because it is unjust, discriminatory and oppressive.

GROUND A foundation or basis; points relied on.

HELD In reference to the decision of a court, decided.

INJUNCTION A prohibitive, equitable remedy issued or granted by a court at the suit of a party complainant, directed to a party defendant in the action, or to a party made a defendant for that purpose, forbidding the latter to do some act, or to permit his servants or agents to do some act, which he is threatening or attempting to commit, or restraining him in the continuance thereof, such act being unjust or inequitable, injurious to the plaintiff, and not such as can adequately be addressed by an action at law. A judicial process operating in personam, and requiring person to whom it is directed to do or refrain from doing a particular thing.

JUDICIAL REVIEW Form of appeal from an administrative body to the courts for review of either the findings of fact, or of law, or of both.

LITIGATION A lawsuit. Legal action, including all proceedings therein.

MERITS Referring to the strict legal rights of the parties.

MOOT A subject for argument; unsettled; undecided. A moot point is one not settled by judicial decisions.

PERMANENT INJUNCTION One intended to remain in force until the final termination of the particular suit.

PLAINTIFF A person who brings an action; the party who complains or sues in a civil action and is so named on the record.

PRECLUDE Estop. To prohibit or prevent from doing something.

PRECEDENT An adjudged case or decision of a court, considered as furnishing an example or authority for an identical or similar case afterwards arising or a similar question of law. A course of conduct once followed which may serve as a guide for future conduct.

PRELIMINARY INJUNCTION Granted at the institution of a suit, to restrain the defendant from continuing or doing some act, the right to which is in dispute, and which may either be discharged or made perpetual, according to the result of the controversy, as soon as the rights of the party are determined.

PREVAILING PARTY The party to a suit who successfully prosecutes the action or successfully defends against it, prevailing on the main issue, even though not necessarily to the extent of his original contention. The one in whose favor the decision or verdict is rendered and judgment entered.

PROCEDURE The mode of proceeding by which a legal right is enforced, as distinguished from the substantive law which gives or defines the right; the machinery, as distinguished from its product. That which regulates the formal steps in an action or other judicial proceeding.

RELIEF Deliverance from oppression, wrong or injustice. A general designation of the assistance, redress, or benefit which a complainant seeks at the hands of a court, particularly in equity. It may be thus used as such remedies as specific performance, injunction, or the reformation or rescission of a contract.

REMAND To send back. The sending by the appellate court of the cause back to the same court out of which it came, for purpose of having some further action taken on it there.

REMEDY The means by which a right is enforced or the violation of a right is prevented, redressed, or compensated.

REVERSE To overthrow, vacate, set aside, make void, annul, repeal, or revoke; to change to the contrary to a former condition.

RIGHT OF ACTION (PRIVATE) The right to bring suit; a legal right to maintain an action, growing out of a given transaction or state of facts.

RIGHT Justice, ethical correctness, or consonance with the rules of law or the principles of morals; a power, privilege, faculty or demand, inherent in one person and incident upon another.

SANCTION That part of the law which is designed to secure enforcement by imposing a penalty for its violation or offering a reward for its observance.

STAND To cease from movement or progress; to remain in force.

STATUTORY Relating to the act of the legislature declaring, commanding or prohibiting something; created or defined by the written will of the legislature, solemnly expressed according to the forms necessary to constitute it to the law of the state.

STAY Hold it in abeyance or refrain from enforcing. The act of arresting a judicial proceeding by the order of the court.

SUMMARY Short, concise, immediate proceeding.

SUMMARY JUDGMENT Rule of Civil Procedure 56 permits any party to a civil action to move for a summary judgment on a claim, counterclaim, or cross-claim when he believes that there is no genuine issue of material fact and that he is entitled to prevail as a matter of law.

SUSPECT CLASS(IFICATION) With regard to test to be used in determining whether statutory classification constitutes a denial of equal protection - those based on race, alienage, national origin and sex.

WITHOUT PREJUDICE A declaration that no rights or privileges of the party concerned are to be considered as thereby waived or lost except insofar as may be expressly conceded or decided.